

**TOWN OF LAUDERDALE-BY-THE-SEA
TOWN COMMISSION
REGULAR MEETING MINUTES
Jarvis Hall
4505 Ocean Drive
Tuesday, October 25, 2016
6:30 PM**

1. CALL TO ORDER, MAYOR SCOT SASSER

Mayor Scot Sasser called the meeting to order at 6:32 p.m. Also present were Vice Mayor Mark Brown, Commissioner Alfred "Buz" Oldaker, Commissioner Chris Vincent, Town Manager Bud Bentley, Assistant Town Manager Tony Bryan, Development Services Director Linda Connors, Town Attorney Susan Trevarthen, Finance Director Lisa Fuentes, Special Projects Coordinator Debbie Hime, Public Information Officer Steve d'Oliveira, and Town Clerk Tedra Allen.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION

Pauline Brooks McGuinness gave the Invocation.

4. ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS

Commissioner Vincent requested that a discussion of Sign Code Amendment be added as Item 13d.

Town Manager Bud Bentley added that Item 15ai, an Ordinance presented for first reading, would be deleted from tonight's Agenda and brought back at a subsequent meeting, as the proposed Ordinance required further review by Staff.

Mayor Sasser announced that on Wednesday, October 26, 2016, at 7 p.m., the Evening in Jarvis Hall Lecture Series will present Dr. Laura Sudarsky, who will discuss advances in breast cancer treatment for men and women. On Saturday, October 29, from 3:30 to 6:30 p.m., all are invited to the Boo-By-The-Sea Halloween event for children on Commercial Boulevard in the Four Plazas. On Friday, November 11, 2016, the Town will hold a Veterans' Day Ceremony at 10 a.m. in front of Town Hall.

5. PRESENTATIONS

a. Kiwanis Club Presentation

Jerry Sehl, representing the Lauderdale-By-The-Sea Chapter of Kiwanis International, reported that Kiwanis volunteers, with the assistance of the Town's Volunteer Fire

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Department (VFD), the Broward Sheriff's Office (BSO), and American Medical Response (AMR), have met their goal of a \$3000 donation for Hope South Florida.

Dr. Ted Greer of Hope South Florida thanked Kiwanis for this donation, and explained that the organization is a faith-based service that assists the homeless. Anyone interested in contributing to the organization may call 954-566-2311 or visit www.hopesouthflorida.org.

b. Christmas-By-The-Sea, December 7, 2016 (Debbie Hime, Special Projects Coordinator)

Special Projects Coordinator Debbie Hime reported that preparations for this event have already begun, including placement of holiday lights throughout the Town. The celebration will include a tree lighting ceremony and a visit from Santa Claus. Staff is seeking volunteers to assist with crafts.

6. PUBLIC COMMENTS

At this time Mayor Sasser opened public comment.

Madeline Urbanski, resident, congratulated the Town for its environmental stewardship and protection of its beaches. She recognized Commissioner Brown for his leadership in the recent planting of over 2500 sea oats on the Town's beachfront and dunes, and thanked all who participated on behalf of the Hampton Beach Club.

Dennis Urbanski, resident, also recognized the participants in the recent sea oats planting, emphasizing the celebratory nature of the event. He added that the Hampton Beach Club is reaching out to neighboring residences to encourage them to extend the planting of sea oats further to the north.

Courtney Stanford, representing the Lauderdale-By-The-Sea Chamber of Commerce, addressed Item 11b, encouraging residents to participate in Shop Small Saturday on November 26, 2016. The intent of this event is to encourage individuals to shop within their own communities.

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

7. PUBLIC SAFETY DISCUSSION

a. BSO September 2016 Report (Captain Tom Palmer)

Commissioner Vincent made a motion, seconded by Commissioner Oldaker, to approve. Motion carried 4-0.

b. AMR September 2016 Report (Chief Brooke Liddle)

Commissioner Vincent made a motion, seconded by Commissioner Oldaker, to approve. Motion carried 4-0.

c. VFD September 2016 Report (Chief Judson Hopping)

Commissioner Oldaker requested an update on a recent incident of arson. VFD Chief Judson Hopping reported that two vehicles were set afire on October 23, 2016. Broward Sheriff's Office (BSO) Captain Tom Palmer added that the resulting arson investigation is being handled by the State Fire Marshal's Bureau.

Commissioner Vincent made a motion, seconded by Commissioner Oldaker, to approve. Motion carried 4-0.

8. TOWN MANAGER REPORT

a. Chamber of Commerce September Monthly Report (Tedra Allen, Town Clerk)

The Commissioners accepted the report without discussion.

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

Town Manager Bentley provided an update on the ongoing bus shelter installation program funded by Broward County Transit (BCT). The Town has reached out to Assumption Church, which is supportive of the program, and has requested that BCT fund a shelter at Town Hall, which may require the dedication of an easement.

Town Manager Bentley continued that in September 2015, the Commission authorized a two-year contract with Mile High Lighting; however, the bid itself does not refer to a multi-year contract. Staff will not request renewal of this contract, but will instead re-bid it after 2016.

He also recalled the performance goals adopted by the Commission as part of the Five-Year Action Plan discussed earlier in 2016. These goals will be discussed on the November 15, 2016 Agenda. Town Manager Bentley requested that the Commission use this upcoming discussion to prioritize these Items for Staff. He asked that any other priorities be added to the list at that time, or that the Commission consider scheduling a special meeting for this discussion.

Town Manager Bentley requested feedback on whether or not the Commissioners found an evaluation form used in 2015 for the Town Manager's performance review to be useful. The form will be distributed to the Commissioners in advance of the November 15, 2016

meeting. Mayor Sasser requested that any revisions be submitted to Town Manager Bentley prior to that date.

9. TOWN ATTORNEY REPORT

Town Attorney Susan Trevarthen reported that a motion for re-hearing the case of *Ober vs. Town of Lauderdale-By-The-Sea* is currently pending, and six briefs in support of the re-hearing are being evaluated. The original ruling on this case upheld the Town's claim of the viability of municipal code enforcement liens between the date of final judgment/foreclosure and judicial sale of the foreclosed property. The Town plans to reach out in writing to other municipalities that have expressed interest in the case.

Regarding the property located at 1724 Bel Air Drive, Town Attorney Trevarthen recalled that when proceedings first began against this property, it had been distressed for some time, and the bank had given up on its first claim on the property, which meant a Satisfaction of Mortgage had been filed. When the Town began proceedings, however, the bank once more expressed interest in the property, and is now seeking to reverse its previous Satisfaction of Mortgage in order to fight for their claim on the property.

Mayor Sasser observed that in addition to this foreclosure process, the property is not being maintained, which has a negative effect on residents in the Bel Air area. He advised that the Town plans to take interim action to maintain the property at least minimally. The property is currently scheduled to go before a Special Magistrate on Thursday, October 27, 2016 to cut the grass and file a lien for this expense. The Town will request that this become a standing order until the property owner assumes responsibility.

The Town is also proceeding against a property located at 240 Imperial Lane, for which a bank does hold a mortgage and is foreclosing. The Town is monitoring this case to ensure that its interests are represented. Town Attorney Trevarthen concluded that the Commission may schedule an Executive Session if they wish to discuss any of these cases in greater detail.

Town Manager Bentley referred to a property at 2011 Coral Reef Drive which has a failing seawall. A loan has been made to the property's receiver by the Town so he can repair the seawall. Development Services Director Linda Connors added that a permit for this repair has been issued and construction is scheduled to begin. She emphasized that the receiver is aware of the effect of this property on its neighbors.

10. APPROVAL OF MINUTES

- a. September 26, 2016 Town Commission Meeting Minutes (Tedra Allen, Town Clerk)**

Commissioner Vincent made a motion, seconded by Commissioner Oldaker, to approve. Motion carried 4-0.

11. CONSENT AGENDA

Mayor Sasser requested that Items 11a and 11b be pulled for additional discussion.

a. Excused Absence for October 25, 2016 Commission Meeting (Tedra Allen, Town Clerk)

Mayor Sasser noted that Commissioner Sokolow had requested an absence for tonight's meeting.

Commissioner Vincent made a motion, seconded by Vice Mayor Brown, to approve. Motion carried 4-0.

b. Special Event Application for LBTS Chamber of Commerce "Shop Small Saturday," November 26, 2016 (Debbie Hime, Special Projects Coordinator)

Mayor Sasser observed that the Chamber of Commerce has requested that the \$100 application fee be waived, although Staff does not recommend a waiver of the fee. Town Manager Bentley advised that Staff wishes to be consistent in its enforcement of the fee.

Vice Mayor Brown made a motion, seconded by Commissioner Vincent, to approve and waive the \$100 fee. Motion carried 4-0.

c. Special Event Application for New Year's Eve Celebration for 101 Ocean, Aruba Beach Café, Athena by the Sea, Mulligans, Village Grille, and Vincent's Restaurant (Debbie Hime, Special Projects Coordinator)

d. Special Event Application from Beachside Village Resort for the Patriots Pre- & Post-Game Gathering and Transportation Proposed for Sunday, January 1, 2017 (Debbie Hime, Special Projects Coordinator)

e. Special Event Application for Village Grille's Patriots Fan Day & Transportation to Game January 1, 2017 (Debbie Hime, Special Projects Coordinator)

f. Special Event Application for A1A Half Marathon Proposed for Sunday, February 19, 2017 (Debbie Hime, Special Projects Coordinator)

Commissioner Vincent made a motion, seconded by Commissioner Oldaker, to approve [Items] 11c, 11d, 11e, and 11f. Motion carried 4-0.

12. OLD BUSINESS

a. Solid Waste Update (Tony Bryan, Assistant Town Manager)

At this time Mayor Sasser opened public comment.

Ron Piersante, resident, stated that the Town's current contractor, WastePro USA, does a good job, and that complaints are minimal compared to their overall performance.

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

Assistant Town Manager Tony Bryan reported that the contract with WastePro USA expires on November 30, 2016. Earlier in the year, Vice Mayor Brown had requested an update prior to renewal of this contract in order to review any documented complaints or incidents related to this service, and also requested a survey of the rates of neighboring municipalities.

There have been a total of 33 actual complaints over the months of June, July, August, and September 2016. Complaints about service were isolated in order to provide an accurate indicator of performance. Staff feels WastePro USA has done a great deal over the past two years to enhance their service, including the addition of GPS and cameras on vehicles. Staff asks that the Commission authorize the Town Manager to negotiate an extension to the existing agreement. A temporary extension is requested in November 2016 while these negotiations are underway.

Town Manager Bentley commented that WastePro USA has suggested a swap-out of older metal dumpsters for new, watertight, non-corrosive dumpsters. As part of a contract extension, the Town would like to negotiate a commitment for the installation of these bins, which will represent both a service and an aesthetic improvement.

Town Manager Bentley continued that it has been suggested that bulk pickup be scheduled for Mondays and Tuesdays rather than on Fridays, as this would eliminate the need to move bulk waste twice. WastePro USA feels it will be possible to accommodate the Town on this request.

With regard to service, Town Manager Bentley advised that the Town receives the level of service for which it has contracted, as Staff has done an excellent job of administering the contract and holding the contractor accountable. He concluded that WastePro USA has been very responsive to the Town's needs.

Commissioner Vincent made a motion, seconded by Vice Mayor Brown, to authorize the negotiation of an extension, as well as a temporary extension. Motion carried 4-0.

13. NEW BUSINESS

a. Discussion of a Party Balloon Ban (Steve d'Oliveira, Public Information Officer)

Public Information Officer Steve d'Oliveira explained that Broward County has requested that an Item be brought before the Board to discuss whether or not the Town wished to discourage individuals from bringing party balloons to the beach or other public areas. If balloons filled with helium eventually deflate over the water, they may be mistaken for jellyfish and consumed by sea turtles and other marine life, causing injury and/or death. Staff does not recommend action, but is requesting feedback from the Commission.

Vice Mayor Brown suggested that the Town's event application forms include a condition requiring that outdoor balloons not be permitted at special events. Commissioner Vincent felt the best course of action, however, was to educate the public on the dangers to wildlife caused by abandoned or released balloons rather than placing a ban on these items, as he felt a ban would be difficult to enforce. Mayor Sasser also advocated for education, pointing out that balloons are sold or distributed by Town businesses.

b. Application for Relief of Code Enforcement Lien at 4660 North Ocean Drive (Linda Connors, Development Services Director)

Development Services Director Connors advised that the subject property is owned by the Florida Development Group (FDG) and is located at the north entrance to El Mar Drive. The property was purchased in 2013 and was cited for eight Code violations in 2014, at which time they were given one year to bring the property into compliance. Four of these violations were related to the building itself, while the remaining four were related to the property's parking area.

The property has since come into compliance with respect to the violations related to the building; however, the four parking lot violations are not yet compliant with Code. While it is Town policy for properties to bring Code violations into compliance before requesting mitigation of fees, the Applicant hopes to open the property for business within the next two months and is requesting mitigation in advance of compliance. The Applicant has significantly modified the parking area, and it is a condition of their Site Plan Amendment that all fines must be paid before a Certificate of Occupancy (CO) is issued.

Development Services Director Connors advised that fines associated with the violations total \$404,800 as of October 25, 2016. Resolution 2014-22 outlines a number of criteria for the Commission to consider with respect to mitigation, including:

- Nature and gravity of the violation
- Applicant must be taking steps to correct the violation
- Length of time between ordered compliance date and the date upon which the property was brought into compliance
- Costs expended to hear the violation
- Existence of prior or current violations by the Applicant

If the Commission wishes to hear the Application for relief, Staff recommends that the mitigation amount be paid no later than December 1, 2016, if the existing violations have been corrected. If not corrected, Staff suggests the mitigated amount be increased by \$1000/day starting December 2, 2016. If the adjusted mitigation is not paid by December 30, 2016, Staff recommends termination of mitigation settlement.

Town Manager Bentley clarified that the intent of Code Enforcement fines or liens is to encourage rational property owners to bring their properties into compliance; however, FDG has accepted fines of up to \$1200/day on some of its properties rather than demolishing them. He suggested that the Commission provide policy direction for Staff to visit with the property owners and review the fines incurred, and pointed out that the Town has been very cooperative with regard to these properties in the past.

Mayor Sasser observed that this and another property owned by the Applicant have been issues since as early as 2010, which has led to frustration on the part of the Town and the properties' neighbors. Commissioner Vincent asked if an unsafe structure that may be afforded legal nonconforming status can be required to be demolished. Town Attorney Trevarthen confirmed that unsafe structures trump other issues such as nonconformity.

Commissioner Vincent also noted that although the permitting process typically takes several months, the Applicant has owned the property for a significant amount of time without bringing it into compliance. Vice Mayor Brown advised that he took no issue with approving mitigation for the Applicant before the property is brought into compliance; however, he felt the requested 10% mitigation was somewhat low in light of the property's history, and proposed 12% instead.

Commissioner Vincent suggested that in lieu of paying a higher mitigation fee, the Applicant could be asked to replace the building trim paint color used on the property.

Robert Lochrie, representing FDG, stated that the Applicant is comfortable with the target date of December 1, 2016. He proposed that allowances be made for this date should another major storm occur, and confirmed that the Applicant is willing to work with Town Staff to reconsider the paint color to which Commissioner Vincent had referred.

Commissioner Vincent made a motion, seconded by Vice Mayor Brown, to accept the 10% mitigation (\$40,730) plus \$250 administrative fee, as well as the recommendation by Staff that the fine increase to \$1000/day if violations are not corrected and the mitigation fee paid by December 1, 2016, with the mitigation settlement to be terminated if payment is not made by December 30, 2016, and the Town Attorney to revise the Development Order to include language regarding a change in the building trim color. Motion passed 4-0.

It was determined by Commission consensus that the motion include the requirement that the trim be repainted. Staff will meet with the property owner as well as with his

representatives to discuss a replacement paint color for the building's trim. Mayor Sasser offered to participate in this meeting as well.

c. Application for Relief of Code Enforcement Lien at 2049 Ocean Mist Drive (Linda Connors, Development Services Director)

Development Services Director Connors stated that this property's violation is failure to connect to the sewer system. As part of a 2001 annexation agreement, the Town agreed to pay for the installation of a sewer system for annexed properties, which were required to connect to this system in 2008. The property was cited in 2009 for failure to connect. The bank took title of the property in 2016 and connected to the sewer system on July 21, 2016.

The property has been in violation for 350 days, with a fine of \$500/day, coming to a total of \$175,000 with an administrative fee of \$250. The bank wishes to pay a total of \$500, which is 0.14% of the amount owed. Development Services Director Connors advised that five properties have been fined for failure to connect to the sewer system, with payments ranging between 3% and 25%. The average payment was 15%. Staff recommends that the Commission determine a mitigated amount, plus administrative fees, to be paid within 30 days.

Claudia Polari, representing Nation Star Mortgage, property owner, stated that while the bank took title of the property in 2015, the previous owner occupied the property through April 2016, which rendered it unavailable for compliance. Once the previous owner had moved out, the bank's process began. She noted that the Town had made a settlement offer, but was not certain the bank was prepared to pay that proposed amount.

Vice Mayor Brown advised that while collecting a fine of \$175,000 was unrealistic, the bank's offer of \$500 was also not reasonable. He suggested that 10% mitigation would be sufficient. Commissioner Oldaker added that the previous owner's occupation of the property should not have prevented the bank from bringing the property into compliance. He was not certain that 10% mitigation would be sufficient.

Commissioner Vincent pointed out that if the property was the previous owner's primary residence, it did not appear to have been homesteaded, which could determine whether or not the bank may perform work on the property. He agreed with the proposed 10% mitigation.

Commissioner Vincent made a motion, seconded by Vice Mayor Brown, to accept 10% and a \$250 administrative fee to be paid in 30 days as recommended by Staff. Motion carried 3-1 (Commissioner Oldaker dissenting).

d. Discussion of Sign Code Amendment (Commissioner Chris Vincent)

Commissioner Vincent explained that when a store is vacated, an Ordinance requires that signs must be removed from windows and windows closed off within 30 days; however, it has been pointed out that this can result in an empty-looking building or an eyesore. He asked if Sign Code might be amended to allow signs to remain in place for a reasonable amount of time, or until the building is re-leased.

Town Manager Bentley advised that the Commission may direct Staff to explore options on this Item, bring them before the Planning and Zoning Board, and bring them back before the Commission with a recommendation.

Development Services Director Connors noted that the windows of vacant buildings must be covered with paper of a specific weight. There was also discussion of requiring this covering to include pictures or illustrations, although this has not been enforced, as there are questions regarding whether or not the Town is responsible for providing the covering.

Commissioner Vincent suggested that the Commission direct Code Enforcement to identify properties not currently in compliance on this issue and provide them with courtesy notices. Development Services Director confirmed that an evaluation program is presently underway.

Town Manager Bentley asked whether or not the Commission would like Code to be enforced with respect to required window coverings. Vice Mayor Vincent strongly recommended that empty windows continue to be covered as required by Code. It was agreed by consensus that the wall sign, and that signs remaining on vacant buildings would not be cited until this portion of Code is reviewed.

14. COMMISSIONER COMMENTS

Vice Mayor Brown thanked Madeline and Dennis Urbanski for their assistance in the recent sea oats planting. This was the 18th such planting thus far, with four additional events planned in upcoming weeks. He pointed out that the Town did not suffer serious erosion during Hurricane Matthew due in part to these efforts.

Vice Mayor Brown also called the public's attention to two upcoming ballot initiatives, each of which would increase the Broward County sales tax by one half-cent to fund transportation and infrastructure improvements respectively. The Town could expect to receive \$560,000 to \$600,000 for projects each year through infrastructure surtax revenue. Funds will be governed by an independent oversight board.

Commissioner Vincent encouraged the public to closely review the surtax initiatives so they fully understand its potential effects. He noted that of the County's \$2.75 billion budget, only \$150 million has been earmarked for transportation, and advised that he would like to see how prospective surtax funds would be spent by the County. He also wished to know if ad valorem taxes would be reduced to offset revenue generated by the proposed surtax.

Mayor Sasser reminded all present of the Evening in Jarvis Hall Lecture Series events, as well as Boo By The Sea and Christmas By The Sea.

15. ORDINANCES – PUBLIC COMMENTS

a. Ordinances 1st Reading

- i. Ordinance 2016-07 – AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 30, UNIFIED LAND DEEVELOPMENT CODE, OF THE CODE OF ORDINANCES TO UPDATE, STREAMLINE AND CLARIFY SITE PLAN REQUIREMENTS AND DEVELOPMENT PROCEDURES; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE (Linda Connors, Development Services Director)**

This Item was deferred to a future meeting.

b. Ordinances 2nd Reading

None.

16. RESOLUTIONS – PUBLIC COMMENTS

- a. Resolution 2016-39 – A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING THE 2016/2017 FISCAL YEAR BUDGET IN ACCORDANCE WITH THE ATTACHED EXHIBIT “A”; AUTHORIZING APPROPRIATIONS AND EXPENDITURES IN ACCORDANCE WITH THE 2016/2017 FISCAL YEAR BUDGET AS AMENDED; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND AN EFFECTIVE DATE (Lisa Fuentes, Finance Director)**

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

Commissioner Vincent made a motion, seconded by Commissioner Oldaker, to approve. Motion carried 4-0.

17. QUASI JUDICIAL PUBLIC HEARINGS

Town Attorney Trevarthen explained the procedures for the hearing of quasi-judicial items, and the Commissioners disclosed any ex parte communications on these Items. Individuals wishing to speak on these items were sworn in at this time.

a. Administrative Adjustment Request to allow a front setback of not less than 22'-10" where 25' is required (Linda Connors, Development Services Director)

Development Services Director Connors stated that the requested adjustment would allow a front setback of not less than 22 ft. 10 in. where 25 ft. are required by Code. The High Noon Resort is being renovated and updated in the Midcentury Modern style. The Applicant's intent is to add a front façade to cover a laundry facility, add detail to the main building, and push the building slightly forward with a small intrusion into the setback area. Due to the small size of the intrusion, Staff recommends an administrative adjustment rather than a variance. The Board of Adjustment and Staff recommend approval of the request.

Paul Novak, Applicant, explained that he wished to tie all his properties together using awnings, paint color, and Midcentury Modern style.

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

Commissioner Vincent made a motion, seconded by Commissioner Oldaker, to approve the administrative adjustment as laid out by Staff. Motion carried 4-0.

b. Variance Request Application to allow a Variance from Section 30-241(i) – View Corridors, of the Town's Zoning Regulations to preserve nine silver buttonwood trees planted on the property located at 4660 North Ocean Drive, where view corridors with clear view from 4 ft. to 12 ft. above ground are required (Linda Connors, Development Services Director)

Town Attorney Trevarthen explained the procedures for the hearing of quasi-judicial items, and the Commissioners disclosed any ex parte communications on these items. Individuals wishing to speak on these items were sworn in at this time.

Development Services Director Connors advised that some of the trees planted in the Town's portal to the beach are located on property owned by the Florida Development Group (FDG). Staff has asked FDG to request a variance that would allow these trees to remain in place and is fully supportive of the request. If the variance is approved, a maintenance agreement will be drafted that will allow Staff to continue to maintain the trees.

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

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Commissioner Oldaker made a motion, seconded by Commissioner Vincent, to approve. Motion carried 4-0.

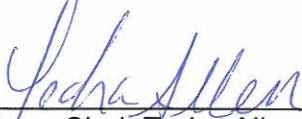
18. ADJOURNMENT

With no further business to come before the Commission at this time, the meeting was adjourned at 8:49 p.m.



Mayor Scot Sasser

ATTEST:



Town Clerk Tedra Allen

11-15-16

Date