

**TOWN OF LAUDERDALE-BY-THE-SEA
TOWN COMMISSION
REGULAR MEETING MINUTES
Jarvis Hall
4505 Ocean Drive
Tuesday, August 15, 2017
6:30 PM**

1. CALL TO ORDER, MAYOR SCOT SASSER

Mayor Sasser called the meeting to order at 6:33 p.m. Also present were Vice Mayor Mark Brown, Commissioner Alfred "Buz" Oldaker, Commissioner Chris Vincent, Town Manager Bud Bentley, Assistant Town Manager Sharon Ragoonan, Development Services Director Linda Connors, Town Attorney Susan Trevarthen, Special Projects Coordinator Debbie Hime, and Town Clerk Tedra Allen.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION

Pastor James Corgee gave the Invocation.

4. ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS

Commissioner Vincent made a motion, seconded by Vice Mayor Brown, to excuse Commissioner Sokolow's absence. Motion carried 4-0.

5. PRESENTATIONS

None.

6. PUBLIC COMMENTS

At this time Mayor Sasser opened public comment.

Adria Eliassen, resident, stated that the proposed revisions to regulations and fees for short-term rentals, particularly those rentals located in multi-unit structures, represent an increase of more than 18,000% per unit. While she felt it was necessary for the Town to take action to control the expansion of vacation rental properties, she asserted that there was no written or posted notification of the increase in the Town's vacation rental application fee. She requested that these regulations be reviewed to ensure that fees are more equitable.

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

7. PUBLIC SAFETY DISCUSSION

a. AMR July 2017 Report (Chief Brooke Liddle)

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

b. BSO July 2017 Report (Captain Tom Palmer)

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

c. VFD July 2017 Report (Chief Judson Hopping)

Vice Mayor Brown requested an update on recent events in which a transformer fell and consequently ignited a fire, noting that a resident had expressed concern with the Volunteer Fire Department's (VFD's) response time. Chief Judson Hopping explained that units responded to these incidents within eight to nine minutes.

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

8. TOWN MANAGER REPORT

a. Chamber of Commerce Welcome Center July Statistics Report (Tedra Allen, Town Clerk)

The Commissioners accepted the report without discussion.

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

Vice Mayor Brown observed that the Town may be eligible for future funding from the Broward Metropolitan Planning Organization (MPO) for transportation-related projects. He noted that renovations to the Town Hall and Public Safety Building may also be eligible for MPO funding if they include a transportation element, as they are located along a State highway.

Development Services Director Linda Connors addressed the issue of vacation rental properties raised during Public Comment, noting that vacation rental regulations address two-, three-, and four-unit properties as well as single-family and town home properties. Multi-unit properties are located in the Town's RD-10 or RM-25 zoning districts, depending upon the number of units. She noted that Ms. Eliassen's property is located in the RM-25 district, which means it is regulated as a short-term rental property.

Commissioner Oldaker asked what is being done to prevent full-sized cars from parking in spaces designated for golf carts throughout the Town. Town Manager Bud Bentley replied that signage in front of these restricted mini-spaces will be upgraded. He requested feedback from the Commissioners upon review of the new signage.

c. Status of the Emergency Reserve Account of the General Fund (Tony Bryan, Deputy Town Manager)

Town Manager Bentley noted that this is a new report required by Code. It will also be presented on the next Agenda, as the reserve account must be reviewed and approved as part of the annual budget process. He added that Staff plans to propose changes to this Code requirement in the future.

9. TOWN ATTORNEY REPORT

Town Attorney Susan Trevarthen announced an upcoming Executive Session regarding the case of *Buena Vista Oceanside LLC v. Lauderdale-By-The-Sea*.

10. APPROVAL OF MINUTES

a. July 25, 2017 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

It was determined that Items 11a and 11d would be pulled for additional discussion.

a. Special Event Application for Green Turtle Plaza's Continuation of Third Thursdays from September 2017 to August 2018 (Debbie Hime, Special Projects Coordinator)

Vice Mayor Brown advised that he recently attended this event, which involves multiple nearby businesses and attracts customers to Green Turtle Plaza. He suggested that this be made a Town-sponsored event so the businesses are not required to pay application or administrative fees, and that this event be seen as an opportunity to expand similar events in the Town's other Plazas.

Mayor Sasser asked if this proposed change could establish an unwanted precedent. Town Manager Bentley replied that the businesses responsible for the event apply for an annual rather than a weekly or monthly permit; he suggested that the Commission consider creating an additional permit level, with fees based on participation, expense to the Town, and other aspects. He concluded that while the Commission has discretion to

waive or reduce fees for the requested permit, he would not be in favor of making this a Town-sponsored event, as it benefits private businesses.

Theresa Mangini, business owner, noted that while the intent of the recurring event is to enhance businesses from within Lauderdale-By-The-Sea, adding further requirements or restrictions such as Town sponsorship might inadvertently prevent businesses or services from out of town from participating as needed.

Town Manager Bentley suggested that until Staff has determined a revised fee schedule, fees be waived for first-year sidewalk events on the west side of Town that involve fewer than 100 participants.

Vice Mayor Brown made a motion, seconded by Commissioner Vincent, to waive the fee for a year, with the understanding that Town Staff will come back with a fee schedule that reflects the administrative costs of permitting the event.

Town Attorney Trevarthen noted that the backup materials for this Item refer to an \$800 permit fee, \$250 late fee, and \$25 electrical fee. Vice Mayor Brown confirmed that the intent of his motion is to waive all three fees.

Motion carried 4-0.

b. Purchase of VFD Communication System (Tony Bryan, Deputy Town Manager)

c. Donation of Fire Rescue Equipment (Tony Bryan, Deputy Town Manager)

Commissioner Vincent made a motion, seconded by Commissioner Oldaker, to approve Items 11b and 11c. Motion carried 4-0.

d. Approval of an Agreement with CAP Government for Building Plan Review and Inspection Services (Sharon Ragoonan, Assistant Town Manager)

Town Manager Bentley explained that negotiations with CAP Government have been concluded. The final document requires correction of a typo as well as one minor change, which are listed in the Commissioners' backup materials. The Commission is asked to approve the contract with these amendments.

Vice Mayor Brown made a motion, seconded by Commissioner Vincent, to approve [with amendments]. Motion carried 3-1 (Mayor Sasser dissenting).

12. OLD BUSINESS

a. Florida Development Group Update (Linda Connors, Development Services Director)

Development Services Director Connors noted that Staff has provided a summary of the status of Code issues related to each of the Florida Development Group (FDG) properties.

Doug Barrow, representing Florida Development Group (FDG), reported that structural repairs are now complete for the property formerly known as Captain's Quarters. Phase II renovations are underway for this property, and construction is expected to be complete in December 2017.

The site plan for the property located at 4116 Ocean Drive, formerly the Holiday Inn, is currently underway, with architectural design and development nearing their final phases for the interior sections. Plans, designs, and a comprehensive budget are expected to be presented to the ownership group by September 30, 2017. Structural analysis has shown that parts of the building may be renovated rather than demolished, although some demolition will allow the developer to perform reconstructive engineering where necessary. Redevelopment will follow the existing footprint of the property.

Commissioner Oldaker asked if FDG has created a website, as mentioned at a previous meeting, which will include updates on the progress of these properties. Mr. Barrow advised that basic information is presently available on the website. Commissioner Oldaker recommended that information regarding the properties' structural soundness be included as well.

Mr. Barrow provided photographs and conceptual drawings of the property, noting that a meeting with Town Staff is scheduled for Thursday, August 18, 2017 for additional review. The design plan includes a dive shop, a marketplace on El Mar Drive, and a restaurant.

The lots at 4108 and 4110 El Mar Drive have been cleared for work and fencing has been erected. Structural repairs are expected to begin on Monday, August 21, 2017. The intent is to combine the two properties. Their ownership has approved an accelerated construction schedule that does require the properties to be opened together, as the construction timeline for the former Villa Capri property is expected to be faster. Model rooms for both projects are expected to be under construction in October 2017.

Commissioner Oldaker asked how new lobby access on El Mar Drive would affect traffic flow on that roadway. Development Services Director Connors advised that Staff will review this proposed configuration to ensure it is in the best interest of the Town. Mr. Barrow added that the developer is willing to work with the Town to relocate public parking on El Mar Drive to another area within the property, although ultimately it will be eliminated.

Development Services Director Connors added that Code allows hotels to promote use of bicycles and bicycle racks in lieu of parking. The Plunge Hotel is required to purchase

65 bicycles for this purpose. It was determined that this issue would be discussed further at a subsequent meeting as a separate Agenda Item.

13. NEW BUSINESS

a. Ranking of Firms Responding to RFP 17-07-01 for Lobbyist Services Authorizing the Negotiation of a Contract (Bud Bentley, Town Manager)

Town Manager Bentley stated that the lobbyist RFP selects a firm to assist the Town in searching for and acquiring State funding, including grants and loan programs. The RFP was released in June 2017 and generated responses from seven firms. Staff recommends that the Commission finalize the ranking of these firms and authorize Town Staff to negotiate with the top-ranked firm. If an agreement with the top-ranked firm cannot be reached, negotiations with the next highest-ranked firm would begin. Alternatively, firms may be invited to make presentations to the Commission at a future date.

The Commissioners discussed the Item, with Mayor Sasser noting that he would prefer to see presentations from the two highest-ranked firms. Town Manager Bentley confirmed that Town Staff may proceed with negotiations with both firms, as the RFP was released under local procurement guidelines and not the Competitive Consultant Negotiations Act (CCNA) process.

Commissioner Vincent made a motion, seconded by Commissioner Oldaker, to have Staff negotiate with both the #1 and #2 firms and come back to the Commission with presentations from both. Motion carried 4-0.

Vice Mayor Brown made a motion, seconded by Commissioner Vincent, to hold a special meeting at 6 p.m. on Tuesday, September 5, to hear presentations on the lobbying contract. Motion carried 4-0.

b. Ranking of the Design Engineering Firms for the Palm Club Sewer Project and Authorizing the Negotiation of a Contract (Bud Bentley, Town Manager)

Town Manager Bentley reported that the Town's settlement agreement with the Palm Club resolves litigation that began in 2009. Part of this agreement provides for the Town to install a sewer in the subject neighborhood. When a design firm has been selected, the Town may then prepare materials necessary for the submission of grant applications and appropriations request.

The selection process for this project is dictated by CCNA requirements, which require a two-stage process. The Town requests the firms' qualifications and evaluates them by these facts rather than cost; it then makes a selection and negotiates with the top-ranked firm, including costs, followed by the next highest-ranked firm if necessary.

Commissioner Vincent made a motion, seconded by Commissioner Oldaker, to negotiate with the first-ranked firm, and if the parties fail to reach an agreement, with the second-ranked firm. Motion carried 4-0.

c. Marina Boats Encroaching into the Navigable Waterway (Linda Connors, Development Services Director)

Development Services Director Connors explained that this is a request for policy direction. In March 2015, Staff communicated to the marina that they would allow boats to extend into the navigable area for a short time until an Ordinance had been drafted to create a marina mooring area. When the Ordinance was amended to allow for a mooring area, the Code provision allowing encroachments into the waterway was deleted. Staff is asking how to proceed with regard to this issue, and recommends that the letter allowing for encroachments be rescinded and the marina be required to come into compliance by January 2, 2018.

Vice Mayor Brown asked if this step is necessary, as the original intent of the letter had been to encourage the marina owner to expedite submission of a Site Plan, which has now been submitted. Development Services Director Connors replied that the January 2, 2018 date was selected to ensure the approval process continues to move forward in a diligent manner, with time for Staff to ensure the application meets all necessary criteria and may go before the Planning and Zoning Board in October 2017.

Commissioner Oldaker stated that he felt some sort of pressure is necessary to bring this issue closer to a conclusion. Commissioner Vincent agreed, adding that the navigable waterway has been clearly delineated to simplify the process and the owner has had an ongoing opportunity to submit amended plans.

Joey Boothby, owner of the marina, advised that he pulled the conditional use permit at the request of Staff in order to meet with the property's neighbors and review the situation. He stated that the marina is not presently accepting boats of more than 48 ft. in length, which will not encroach into the navigable waterway. He assured the Commission that improvements are moving forward and asked that they not establish a January 2, 2018 deadline.

Commissioner Oldaker made a motion, seconded by Commissioner Vincent, to rescind the letter from 2015 and for all violations to come into compliance by January 2, 2018.

Vice Mayor Brown requested clarification of whether or not boats in the navigable waterway would be the only element coming into compliance. Development Services Director Connors replied that all Code violations must be addressed by the deadline. After January 2, 2018, any outstanding issues will advance to the Special Magistrate, who would have discretion to extend the compliance date.

Motion carried 4-0.

d. Work Authorization for Annexation-Related Code Amendments (Linda Connors, Development Services Director)

Development Services Director Connors advised that an Ordinance pertaining to the annexation areas is also on tonight's Agenda. Staff is requesting a work authorization to assist with implementing the second phase of annexation-related Code amendments.

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

14. COMMISSIONER COMMENTS

Commissioner Oldaker asked Development Services Director Connors to walk the Commission through recent submissions related to the marina, including how these submissions could be provided to any interested parties. Development Services Director Connors noted that the State of Florida's public records law requires any information submitted to the Town to be available to the public. Because a number of residents have expressed interest in the marina, the Town regularly emails these individuals with updates on this issue. Interested parties may email her at lindac@lbts-fl.gov to be added to the distribution list. Public comments on this topic may be made at Town Commission or Planning and Zoning Board meetings.

Development Services Director Connors continued that she has requested that information sent to Staff be provided digitally so it may be emailed to interested parties. The most recent submission was received in both hard copy and digital form. She noted that this submission was incomplete prior to the afternoon of August 15, 2017.

Vice Mayor Brown recalled that he recently attended an international coral reef conference in Fort Lauderdale, at which many international scientists were present. He spoke to this group regarding the Town's sea oats planting project.

Mayor Sasser extended the Town's condolences to the family of Sunny Eckhart, who recently passed away.

15. ORDINANCES

a. Ordinances 1st Reading

- i. Ordinance 2017-09 – AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 30, UNIFIED LAND DEVELOPMENT REGULATIONS, OF THE CODE OF ORDINANCES, BY CREATING A SECTION,**

“PROHIBITED USES”; AND BY AMENDING DEFINITIONS, REGULATIONS, STANDARDS AND PROHIBITIONS RELATED TO MEDICAL MARIJUANA USES TO PROHIBIT MEDICAL MARIJUANA RETAIL CENTERS; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE (Linda Connors, Development Services Director)

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

Development Services Director Connors advised that this Ordinance is in response to Florida Senate Bill (SB) 8A. At their July 11, 2017 meeting, the Commission directed Staff to prepare this Ordinance to prohibit medical marijuana dispensaries within Town limits.

Commissioner Vincent made a motion, seconded by Commissioner Oldaker, to approve. Motion carried 3-1 (Vice Mayor Brown dissenting).

- ii. Ordinance 2017-10 – AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 12, “LICENSES,” OF THE CODE OF ORDINANCES, BY DELETING SECTION 12-25 “MARIJUANA BUSINESSES”; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE (Linda Connors, Development Services Director)**

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

Development Services Director Connors explained that this Ordinance deletes all existing business regulations for medical marijuana dispensaries, previously included in Chapter 12.

Commissioner Oldaker requested that the Commission revisit this issue in 12 to 18 months when they have had sufficient time to see steps taken by other municipalities. The Commissioners agreed to this by consensus.

Vice Mayor Brown explained that his votes on Ordinances 2017-09 and 2017-10 reflect the fact that 66% of the Town’s population voted in favor of allowing the sale of medical marijuana. He felt his vote was consistent with the wishes of the majority of the Town. Mayor Sasser noted, however, that this majority did not vote specifically on whether or not to allow medical marijuana dispensaries within the Town.

Commissioner Vincent made a motion, seconded by Commissioner Oldaker, to approve. Motion carried 3-1 (Vice Mayor Brown dissenting).

- iii. **Ordinances 2017-11 – AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, CREATING TOWN REGULATIONS FOR THE ANNEXED AREAS, LYING GENERALLY NORTH OF PINE AVENUE AND CURRENTLY REGULATED BY THE FORMER BROWARD COUNTY CODE, BY DELETING DUPLICATE AND INAPPLICABLE PROVISIONS AND APPLYING THE TOWN'S EXISTING GENERAL LAND DEVELOPMENT REGULATIONS IN CHAPTER 30 THROUGHOUT THE ANNEXED AREAS; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE (Linda Connors, Development Services Director)**

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

Development Services Director Connors stated that when properties north of Pine Avenue were annexed by the Town, the annexation agreement required that Broward County regulations be followed until the Town could incorporate these properties into Code. Staff has reviewed differences between Town and Broward County Codes to determine if duplicate regulations exist, which set of regulations are more restrictive or lenient, and how the adoption of regulations would affect the built environment.

This Ordinance has gone before the Planning and Zoning Board at two separate meetings and is scheduled to return to that Board at the August 16, 2017 meeting after the advisory body has made a formal recommendation. Duplicate items are listed in a table in the Commissioners' backup materials.

Other items that required more stringent review were also brought before the Planning and Zoning Board. While County Code includes some specific lighting and seawall regulations, the Town does not. Staff determined that it would be best to keep these County regulations and apply them throughout the Town. Because Broward County regulations for swimming pools are more stringent than Town regulations, the Planning and Zoning Board recommended maintaining the Town regulations.

When Town regulations were more restrictive than County regulations, such as front patio setbacks, the Board recommended that Town regulations be deleted. Boat lifts that meet Town regulations but do not have the proper permits may be considered legal nonconforming uses. This means if these lifts are replaced, they must be replaced in compliance with Town regulations.

Once duplicate regulations are deleted, what remains are the basic regulations that apply to zoning districts within the annexed area. This language will be rewritten so it meets the

format of the Town's Code and is officially codified in the ULDR. Staff remains in regular contact with neighborhood associations in the annexed area.

Commissioner Vincent observed that one option may be to place a notice of legal nonconforming use in the Town's file on certain properties so future owners would be aware of this status, particularly with regard to regulations for boat lifts.

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

b. Ordinances 2nd Reading

None.

16. RESOLUTIONS – PUBLIC COMMENTS

- a. Resolution 2017-32 – 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 (Tony Bryan, Deputy Town Manager)**

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

Town Manager Bentley stated that this Item addresses the closing costs for the purchase of the Majestica apartment building, which were not previously known.

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

- b. Resolution 2017-33 – A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, ADOPTING A SCHEDULE OF FEES FOR THE PAYMENT IN LIEU OF PARKING (PILOP) PROGRAM; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE (Linda Connors, Development Services Director)**

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

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Development Services Director Connors recalled that at the previous Commission meeting, fees were adopted for the payment in lieu of parking (PILOP) program. These fees were established as follows:

- First and second parking spaces: \$5000
- Any additional parking spaces: \$20,000

She continued that Vice Mayor Brown had asked Staff to consider amending the fee schedule with respect to the impact that second- or third-floor uses could have on the Town, as well as the impact that different types of uses may have. The result is the proposed Amendment, which would change the fee schedule as follows:

- First and second parking spaces: \$5000
- Additional spaces for non-residential first floor: \$20,000
- Restaurant uses: \$20,000 for additional first-floor spaces, \$50,000 for the second floor, and \$100,000 for the third floor
- All other uses: \$20,000 for first floor, \$25,000 for the second floor, and \$30,000 for the third floor

The Resolution also recognizes that the purchase of a PILOP space is not considered a development order and is not affected by statutory extensions of development orders. Instead, it outlines a process by which PILOP space reservation or relief may be obtained. This means when an entity applies for a development permit and requires site plan approval, that entity may reserve the number of exemptions needed to advance through the site plan application process. This reservation lasts for three months and may be renewed if necessary.

The Resolution also establishes the non-refundable nature of the PILOP spaces, and that vesting for PILOP relief is not obtained until a building official grants a certificate of occupancy or certificate of use. Finally, it also establishes a pool of relief at 100 exempted parking spaces.

The Commissioners discussed the Resolution, with Commissioner Oldaker asking if fees may be adjusted at another time. Development Services Director Connors confirmed this, stating that fees may be adjusted with a single hearing and would not be required to go before the Planning and Zoning Board, as they are part of a Resolution rather than an Ordinance.

Vice Mayor Brown stated that the pricing of first-floor spaces is comparable to that of other communities and encourages developers to build at this level, while second- and third-floor prices will be significantly higher. Mayor Sasser agreed, pointing out that the intent is to prevent restaurants from assuming control of multiple floors, which could be problematic for the Town.

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

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Commissioner Vincent requested that the Planning and Zoning Board be asked to review the nonrefundable deposit requirement to determine when it should be due during the permitting process. He felt it would be best to require the deposit prior to receipt of a certificate of occupancy rather than during an earlier phase.

17. QUASI JUDICIAL PUBLIC HEARINGS

None.

18. ADJOURNMENT

With no further business to come before the Commission at this time, the meeting was adjourned at 8:36 p.m.



Mayor Scot Sasser

ATTEST:



Town Clerk Tedra Allen



Date