

**MEETING MINUTES
TOWN OF LAUDERDALE-BY-THE-SEA
TOWN COMMISSION
VIRTUAL SPECIAL MEETING MINUTES
Jarvis Hall
4505 Ocean Drive
Tuesday, June 30, 2020
6:00 PM**

1. CALL TO ORDER

Mayor Chris Vincent called the meeting to order at 6:00 p.m. Also present via teleconference were Vice Mayor Alfred “Buz” Oldaker, Commissioner Edmund Malkoon, Commissioner Elliot Sokolow, Commissioner Randy Strauss, Town Manager Bill Vance, Town Attorney Susan L. Trevarthen, Assistant to the Town Manager Neysa Herrera, Finance Director Lucila Lang, Municipal Services Director Ken Rubach, Development Services Director Linda Connors, Senior Code Inspector Bethany Banyas, Public Information Officer Steve d’Oliveira, and Town Clerk Tedra Allen.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. DISCUSSION ITEMS

**3.a Interlocal Agreement with Broward County related to COVID-19
Emergency Order Enforcement (Linda Connors, Development
Services Director)**

Town Attorney Susan Trevarthen read the following Resolution into the record:

A Resolution of the Town of Lauderdale-By-The-Sea, Florida, authorizing the Town Manager to execute an interlocal agreement with Broward County for enforcement of the provisions of the County COVID-19 Emergency Orders and Section 8-56 of the County Code of Ordinances within the Town’s boundaries; directing the appropriate Town officials to execute the agreement; providing for severability and for an effective date.

Development Services Director Linda Connors explained that Broward County has asked its municipalities to enter into an interlocal agreement for the enforcement of Executive Orders related to the COVID-19 pandemic. The Order provides \$1500/month to the Town for their assistance in enforcement. The Town has already received complaints through Broward 3-1-1 and is required to respond to them. The Town will bill Broward County on a monthly basis, and the County will provide the \$1500/month through December 2020.

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Town Attorney Trevarthen added that the Town has three options for the disposal of a complaint:

- Report that the complaint is unsubstantiated
- Report that a warning was given
- Report that the appropriate party has been cited

The amount of funding provided to the Town through the County is proportionate to its population. Development Services Director Connors further clarified that the Town will also log in any complaints received outside the 3-1-1 system. This is to ensure that all complaints related to the pandemic are listed together. Mayor Vincent emphasized that the Town will maintain home rule and work collaboratively with its businesses to ensure enforcement.

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

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

3.b Resolution Approving Proposed Settlement of Florida Development Group Lien Foreclosure Litigation (Susan Trevarthen, Town Attorney)

Town Attorney Trevarthen read the following Resolution into the record:

A Resolution of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, approving the settlement of its foreclosure litigation against Florida Development Group; 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; and providing for an effective date.

At this time Mayor Vincent opened public comment.

Town Clerk Tedra Allen read the following public comments:

- Barbara Cole, resident, thanked the Town Commission for bringing this issue to resolution

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- Lou G. (full name not provided), resident, encouraged the Town to turn the Florida Development Group (FDG) parcel into a community park with open green space

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

Town Attorney Trevarthen advised that the Resolution addresses a specific lawsuit filed on the Town's behalf in December 2018. This suit included foreclosure action, as the property had accrued over \$7 million in Code Enforcement liens beginning under a previous owner. The foreclosure was filed as a means to prompt action by the owner. The properties, informally known as the Holiday Inn and Villa Caprice properties, are at the south end of El Mar Drive on the east and west sides of the street.

Town Attorney Trevarthen briefly reviewed the site's history under FDG, which purchased the property in 2014, made a \$300,000 payment toward the lien, and requested additional lien mitigation. The mitigation was conditional upon the application of \$300,000 toward existing liens; however, these liens were not lifted, as FDG did not meet the required schedule for redevelopment.

The Town recently negotiated a settlement through mediation, with Commissioner Strauss serving as Town Commission Liaison during these negotiations. The Town obtained payment of the settlement sum into escrow prior to tonight's meeting. The amount included an additional \$87,000 as a surety for the restoration of the property.

Sam Zeskind of Weiss Serota Helfman Cole & Bierman reviewed the settlement, which includes payment of a settlement sum of \$1.65 million to the Town. Should the Commission approve the settlement at tonight's meeting, the \$1.65 million would be released from escrow and paid to the Town within three business days.

Another aspect of the settlement addresses demolition and restoration. FDG has agreed to provide the Town with a performance bond guaranteeing demolition by December 2020. If FDG fails to accomplish this, the Town could use the surety to cover the costs of hiring a contractor to complete demolition. If FDG fails to meet obligations under the bond, the agreement permits the Town to enter the property, complete the demolition, and expect FDG and the surety to recover its costs.

Attorney Zeskind noted that restoration work, including landscaping and fencing, is not covered by the performance bond. To provide security to the Town, \$83,750 is

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earmarked to cover the two restoration contracts into which FDG has entered. This amount is already in escrow. Invoices for restoration work would be submitted to the escrow agent for payment. Should FDG fail to perform restoration work, the Town may use the remaining escrow funds for this purpose.

At the conclusion of the settlement, all liens and other fines related to the FDG properties will be released, and all violations on the property will be recorded as having been brought into compliance. This does not preclude the Town from future enforcement of its Code, should new violations on the properties arise after the agreement is completed.

Town Attorney Trevarthen advised that the property in question is privately owned and the Town will not own it following completion of the settlement.

The Commissioners discussed the presentation, with Vice Mayor Oldaker requesting clarification of the timeline for demolition. He recalled that in the past, emergency declarations from the Governor's Office have allowed for the extension of permits beyond their original time frame. Town Attorney Trevarthen confirmed the statute in question applies to development permits and orders, which means permits for the subject property may be subject to extension; however, this is one reason the Town's representatives ensured a schedule was part of the agreement. This is an enforceable promise that the demolition will be performed on time.

Commissioner Malkoon commented that most of the comments he has heard from residents have been positive. The Town is settling for a lesser amount of money than the total, as the intent of Code Enforcement is to bring properties into compliance.

Commissioner Sokolow noted that in addition to the \$1.65 million settlement, the Town has collected approximately \$300,000 from an earlier settlement, totaling roughly 25% of the total fines. Two separate contracts are in place for the landscaping, irrigation, and fencing associated with restoration. FDG will be responsible for any cost overruns, and has approximately five months to complete demolition and restoration.

Mayor Vincent observed that once structures on the subject property are demolished, any buildings planned there are limited to the current legal height limits, with no further legal nonconforming use. The Mayor, Vice Mayor, and Commissioners expressed their thanks to Town Staff and the Attorneys for their work in negotiating the settlement.

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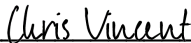
At this time Mayor Vincent opened public comment. Town Clerk Allen read the following public comment:

- Mark Stern, resident, stated that he was supportive of the proposed settlement, and suggested that a portion of the fines collected should go toward improvement of the roadway at the Palm Avenue Portal and the sidewalks on El Mar Drive

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

4. ADJOURMENT

With no other business to come before the Commission at this time, the meeting was adjourned at 6:43 p.m.

DocuSigned by:

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Mayor Chris Vincent

ATTEST:

DocuSigned by:

F79938A3F45D42E...
Town Clerk Tedra Allen

7/22/2020

Date