

**TOWN OF LAUDERDALE-BY-THE-SEA
TOWN COMMISSION
REGULAR MEETING MINUTES
Jarvis Hall
4505 Ocean Drive
Tuesday, May 12, 2015
7:00 PM**

1. CALL TO ORDER, MAYOR SCOT SASSER

Mayor Scot Sasser called the meeting to order at 7:10 p.m. Also present were Vice Mayor Chris Vincent, Commissioner Mark Brown, Commissioner Stuart Dodd, Commissioner Elliot Sokolow, Town Manager Connie Hoffmann, Assistant Town Manager Bud Bentley, Assistant to the Town Manager, Town Planner/Assistant Development Services Director Linda Connors, Town Attorney Susan L. Trevarthen, Finance Director Tony Bryan, Municipal Services Director Don Prince, Public Information Officer Steve d'Oliveira, and Town Clerk Tedra Smith.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION

Reverend George Hunsaker gave the Invocation.

4. ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS

It was noted that Item 13c, under New Business, would be moved to Item 16d, as this Item requires a quasi-judicial public hearing. Items 16b and 16c will also be moved to earlier positions on the Agenda, directly following Item 5, Presentations.

Mayor Sasser advised that there has been a request by the Applicant to delay the hearing of Item 16a. Town Attorney Susan Trevarthen recommended that the Item be continued until the date certain of June 9 so the Town would not have to re-advertise this Item.

Commissioner Sokolow made a motion, seconded by Commissioner Brown, to table the Item until June 9. Motion carried 5-0.

5. PRESENTATIONS

a. CAFR Presentation (Tony Bryan, Finance Director)

Finance Director Tony Bryan introduced Tony Grau of Grau and Associates, auditors. Mr. Grau provided a brief presentation on the audit, which received a clean opinion and included the following:

- There were no issues that arose in the course of the audit. This is the second year in a row
- Management Discussion & Analysis (MD&A), which is a recap of financial activity for the Town. The Statement of Net Position, which shows comparisons between FY13 and FY14. He reviewed the Statement which shows a total net position of nearly \$45 million, a net increase of \$1.9 million compared to \$1.3 million in the prior year;
- The Actual financial statements come next'; they give more detail.
- The Balance Sheet shows the Town has \$7.5 million in the General Fund balance, of which \$ for emergency reserve, \$1.5 million used to cover budgeted expenditures in the current fiscal year.
- The income statement shows a loss of approximately \$733,000 in the General Fund and \$1.4 million in the Capital Fund in FY14 due to extensive expenditures on capital projects in FY14.
- On pages 18-19 are the Balance sheet and income statement for the Town's proprietary funds, the sewer fund and the parking fund. The net position is approximately \$3 million in the sewer fund and \$8.3 million in parking. The total unrestricted funds for those funds combined are \$2.7 million. The parking fund had a gain of \$1.1 million in FY14.
- Page 34 shows the inter-fund transfers. Approximately \$3.5 million was spent during the year on capital projects;
- The Town's only long-term debt at present is for compensated absences; the promissory note in the parking fund was paid off during the year.
- Next year, the Town's proportionate share of liability associated with the Florida Retirement System will be included in the government-wide balance sheet as a liability as a result of changes in GASB.
- The Firefighters pension fund is overfunded at this point.
- OPEB (post-employment benefits for employee) has a small liability, only about \$8,000.

The audit reports include a Report on Internal Control and Compliance, which had no findings; a report attesting that the Town is compliant with its investment policies; and the Management Letter, which reflects neither findings for FY2014 nor carry-forward findings from the prior year's audit.

The Commission accepted the report without comment.

b. Cookie Shop 50 Year Proclamation

Mayor Sasser read the Proclamation, which recognized the Cookie Shop, and its owners John and Julie O'Connor, for celebrating its 50th year in business. May 12, 2015 was officially proclaimed Cookie Shop Day in Lauderdale-By-The-Sea. The Proclamation was received with applause from the audience.

c. EMS Week Proclamation

Mayor Sasser read the Proclamation recognizing the week of May 18-24, 2015 as Emergency Medical Services Week and American Medical Response as the Town's provider of emergency medical services.

The following Items were taken out of order on the Agenda.

16. QUASI JUDICIAL PUBLIC HEARINGS

Mayor Sasser reviewed the time limits and rules of decorum for all present, explaining that these would apply to both the presentation and public comment phases of the quasi-judicial items. Town Attorney Trevarthen explained the procedures for the hearing of quasi-judicial items. Disclosures were made by the Commissioners, who affirmed that their decisions on these Items would be made on the record of the hearing and not influenced by ex parte communications. All members of the public wishing to speak on these Items were sworn in.

Town Attorney Trevarthen added that because the majority of the information about the two Applications was very similar, the presentations, public comments, and discussion of the Items would be combined, although the Commission would vote separately on the two Items.

b. Meridian Treatment Solutions, Inc. Request for Zoning Relief for 4411E Tradewinds Ave. (Susan Trevarthen, Town Attorney; Linda Connors, Assistant Development Services Director / Town Planner)

c. Meridian Treatment Solutions, Inc. Request for Zoning Relief for 4412/4416 W. Tradewinds Ave. (Susan Trevarthen, Town Attorney; Linda Connors, Assistant Development Services Director / Town Planner)

Assistant Development Services Director/Town Planner Linda Connors advised that the subject properties are zoned RD-10, the Town's duplex zoning district. The Applicant is a State-licensed provider of outpatient counseling for adults seeking recovery from alcohol or other substance abuse addictions. The Applicant requests relief under the Fair Housing Act (FHA) and Americans with Disabilities Act (ADA) from two aspects of Town Code: the notice and public hearing requirements of the Town's zoning relief procedure, and the Town's application of the terms "two-family dwelling" and "family," which limits occupancy in each unit to three unrelated persons.

Town Attorney Trevarthen reviewed the legal context of the Applications, explaining that Federal law provides persons in recovery from addiction with protection from housing and zoning discrimination as disabled persons. The Town is required by Federal law to include a procedure in Code by which disabled persons may seek reasonable

accommodation from the requirements of the zoning Code. The procedure is found in Section 30-138, "Zoning Relief," of Town Code. Federal law does not require the Town to allow treatment to occur in residential properties, and a condition of approval ensures that the Applicant does not propose to do so; however, self-help groups are allowed to meet in residences.

The Applicant seeks to place more than three unrelated persons in each of the four dwelling units under discussion. Florida and Federal courts have held that a municipality must grant relief from the occupancy limit for those who are living as a group in a substance-free residence. Documentation by the Applicant is included in the backup materials. Relief may be granted in whole or in part.

Town Attorney Trevarthen continued that no Federal court in the United States has ever finally decided that a municipality may refuse to have a zoning relief procedure, or refuse to process a request for relief if such a request is received. Similarly, no Federal court has allowed a municipality to categorically refuse to consider relief from an occupancy limit. There is no case law that allows a municipality the right to regulate recovery residences outside the residential zoning districts: in the eyes of Federal law, they are residential uses.

While an effort is underway to pursue changes to Federal law in this matter, no such changes have occurred thus far. A recent bill in the Florida State Legislature seeking to regulate these uses through mandatory requirements was not enacted into law. House Bill (HB) 21 was adopted by the Florida Legislature on April 24, 2015, but has not yet been sent to the Governor. If it becomes law, it would take effect on July 1, 2015 and create a patient protection program for individuals living in recovery residences. That bill provides for voluntary certification of both the residence and its managers. Town Attorney Trevarthen emphasized that any action taken at tonight's meeting will not be impacted by this potential State law: the law will affect the Applicant by its terms.

Asst. Director Connors reiterated that the Applicant has requested relief from two aspects of Town Code. Staff recommends denial of the first request for relief from the Town's notice and hearing requirement, as there is no administrative approval or waiver provision in the Code for such relief and the request has been processed in accordance with Code's procedural requirements.

The Applicant is also requesting relief from the Town's limitations on the number of unrelated persons that can reside in a living unit. The Applicant's property at 4411 East Tradewinds Avenue contains two three-bedroom units, and the Applicant requests accommodation to house six and four unrelated persons in the units respectively. The properties at 4412/4416 West Tradewinds Avenue also contains two three-bedroom units, for which the Applicant proposes to house seven unrelated individuals at 4412 and six unrelated individuals at 4416. The application and Staff report include information from the Applicant addressing the therapeutic necessity of group living to the rehabilitation/reintegration of patients into society under ADA and FHA case law.

Given the courts' interpretation of federal laws requiring accommodation for disabled persons, Staff recommends approval of housing six unrelated individuals in unit A of the 4411 property and four unrelated persons in unit B, with the use of that property's den limited to Meridian staff and residents of that unit. Staff recommends partial approval of the request for the property at 4412 by allowing six unrelated persons rather than seven in that unit, as well as approval for six unrelated persons at 4416.

The Town Attorney's Office has worked with the Applicant to define and limit the scope of the proposed use. Violation of approved conditions or Town Code could ultimately lead to either modification of the zoning relief approval or Code Enforcement.

Staff has proposed recommendations for both properties, which are summarized as follows:

1. Residency is limited to Meridian clients who are disabled under ADA and enrolled in day/night treatment with community housing, intensive outpatient therapy, or outpatient therapy;
2. There will be no treatment at the residences, and occupancy is limited to what is approved tonight, with no more than two individuals per bedroom;
3. No Meridian employee shall reside at the residences, and there must be three behavioral health technicians on the combined sites, with at least one technician at each property that is occupied, 24 hours per day and seven days per week;
4. Moving in or out shall be limited from 8 a.m. to 7 p.m.;
5. If there is a positive alcohol or illegal drug test for an individual residing there, that will result in discharge to an offsite location, with no resident discharged to the streets;
6. If vehicular transportation is necessary, residents shall be transported by Meridian or other prearranged transportation to a predetermined destination;
7. Overnight guests are prohibited;
8. Maximum parking at 4411 East Tradewinds Avenue will be three vehicles per unit for a maximum of six; at 4412/4416 West Tradewinds Avenue, there may be four vehicles per unit, with a maximum of eight;
9. Parking must be in designated paved parking areas and not on the grass;
10. Vehicles must be unmarked non-commercial vehicles, with no personal vehicles for residents unless approved by Meridian;
11. Bedrooms must comply with emergency access requirements of the Florida Building Code, and garbage treatment must comply with Town Code;
12. There shall be no home occupations or business activities, except as legally approved pursuant to Town Code;
13. Any relief granted is specific to Meridian Treatment Solutions, who must comply with all other Codes and Ordinances.

Asst. Director/Town Planner Connors noted that two additional conditions are specific only to 4411 East Tradewinds Avenue:

14. The den in Unit 2 may be used solely by residents of 4411 East Tradewinds Avenue and by Meridian staff;
15. The Applicant shall remove the swale cutout on East Tradewinds Avenue and replace with sod within 30 days.

It was asked if the Applicant is required to make the properties ADA-compliant, including lifts, ramps, and other modifications, as the properties are protected by ADA and FHA. Town Attorney Trevvarthen clarified that the relevant standard for compliance with these laws applies to the duplex itself: an institutional standard is not applicable in this case.

Jeffrey Lynne, representing the Applicant, advised that Meridian Treatment Solutions is licensed by the State of Florida to provide outpatient services offsite, with no treatment or services occurring within any residential dwellings. Its license requires provision of recovery residences as part of the need to integrate individuals in recovery back into the community. Meridian's residences will remain drug- and alcohol-free environments and will be supervised 24 hours per day, seven days per week, with a curfew, for the benefit of the residents. The properties will continue to be well-maintained. Mr. Lynne observed that in comparison to vacation rental properties, which can be transient, do not have general rules for behavior, and may not be drug- and alcohol-free, the Applicant is requesting only to be treated like any other residential dwelling within the Town.

He continued that Meridian has recently been recognized by the Joint Commission for Recognition and Accreditation, which certifies more than 20,500 health care organizations and programs within the United States. Mr. Lynne emphasized the need to reconcile housing of patients in treatment with the impact of placing this housing within residential neighborhoods. He briefly reviewed past public policy addressing substance abuse and mental health disorders, pointing out that the ADA was signed in order to address stigma and prejudice in how disabled Americans were treated.

Mr. Lynne advised that substance abuse disorders and mental illness continue to be the most discriminated-against behavioral health conditions in the United States. This discrimination is the basis for the Applicant's request for relief from public notice and hearing. He noted that policy papers by the American Planning Association (APA) address the issue of municipalities using zoning to exclude community residences from single-family residential districts, although the majority of court decisions recognize that these residences are a residential use.

Mr. Lynne paraphrased an APA policy paper, noting that since the 1970s and 1980s, it was recognized that warehousing individuals with disabilities in institutions was both costly and ineffective, as a large proportion of these individuals could live in much less

restrictive, family-like environments, such as a house or apartment surrounded by other residential uses. They do not require the high level of care provided by an institution.

Mr. Lynne emphasized that the residences do not house violent offenders, but include individuals who live together as a family in sobriety. In addition, community residences have not been found to affect property values, and residents of group homes are less likely to commit crime than the general population. He concluded that the National Institutes of Health determined that recovery residence and cohabitation, with at least two persons per room, are therapeutically necessary, as they ameliorate the chances of relapse, promote accountability, and significantly increase sustainable recovery rates.

Carol Parks, Program Director at Meridian Treatment Solutions, advised that at an earlier time, substance abuse patients were placed in psychiatric hospitals to receive medication and therapy, then returned to society 28 days later. Over time, this model has been determined not to be helpful for anyone except psychiatric patients who cannot live on their own. It has been replaced by a social model of recovery, in which individuals are institutionalized for detoxification until they are physically and emotionally ready to live on their own. Patients then come to facilities like Meridian, where they live in a family setting. At present, individuals in treatment come into a home, learn to care for themselves, and confront day-to-day issues with coping skills.

At this time Mayor Sasser opened public comment.

John Oughton, resident, emphasized that achieving sobriety is not always possible after a person's first time in rehabilitation. He requested that the overall feelings of the community be taken into consideration.

Gary Burnett, resident, advised that his property is adjacent to Meridian's West Tradewinds Avenue property. He asserted that he was unaware of the use of the property until recently and has not met his current neighbors. He was not in favor of granting the Applications.

Gloria Wetherington, property owner, pointed out that Florida Statute 419, which addresses community and residential homes, includes a provision intended to avoid the concentration of community/residential homes in a single area. The provision includes a limit on the number of individuals who may reside in these units, as well as dispersal of the units. She also noted that if impairment does not last longer than six months, ADA classification may not be applied. She concluded that she was opposed to the proposed numbers of residents.

Bernie Petreccia, resident, observed that the average household in the Silver Shores neighborhood includes an average of 2.5 residents, and felt the subject properties should be limited to this average. With regard to parking, he felt there should be no more than three vehicles per property, not per unit. He asked if Meridian would be

required to vacate the properties if there were more than three disturbance calls per year.

Bob Karley, resident, stated that he and his neighbors are concerned for their property values, as well as the number of residents who may reside at the subject properties. He said the proposed use was not wanted by the neighborhood.

Barbara Cole, resident, said it should be possible to provide treatment in a setting that is neither an institution nor a residential home, such as a campus. She recognized that the proposed use is federally sanctioned, which restricts any actions the Commission may take with regard to the Application.

Larry Rowe, resident, noted that if he wished to open a business in a business district, he would be required to have all necessary Town, County, and State licenses; however, he did not believe Meridian had gone through a similar licensing process. He expressed disappointment that the Town would allow more than three occupants per unit.

Fred Fauth, resident, stated that the presence of residential treatment facilities could be harmful to property values, and asserted that the Applicant should abide by existing occupancy limits.

Wes Shelton, resident, said while he is sensitive to the needs of individuals seeking treatment for substance abuse disorders, he has past experience with both density and transiency as a past neighbor of residential treatment facilities. He felt the facility's purposes could be served without increasing the density.

April Holmes, resident, expressed concern with the proposed increase in density.

Bob Schuyler, resident, stated that he has assisted in the successful establishment of sober housing for individuals in recovery, which were not located in residential districts. He advised that he was opposed to the Application.

Hotse Langeraar, owner of Meridian Treatment Solutions, explained that in the past year, Meridian has treated 134 clients, completed successful treatment for 36, transferred 25 clients to other facilities, and currently has 18 clients in treatment. Their success rate is over 30 percent. He emphasized the residential facility's role in making a difference in its clients' lives.

John Lehman, President of the Florida Association of Recovery Residences, established that he is supportive of HB 21, which would provide greater oversight to the recovery industry through voluntary certification standards. He noted that Meridian has completed certification and complies with national standards. He concluded that residents may visit the Association's website, www.farronline.org.

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Chris Gallagher, resident, stated that he and his family may move to another community due to the impact of the subject properties.

Joanna Petropoulos, resident, advised that her street is flanked by Meridian properties at both ends, which have negatively affected her property value. She expressed concern for the community's and the Town's reputation, as well as for the enforcement of Town Code.

Joe Couriel, resident, stated that the Commission did not have authority to make any zoning changes without referendum.

Christine Lymperopoulos, resident, expressed concern with the effect recovery residences would have on her neighborhood and her property value.

John Frasene, resident, stated he was concerned with the lack of regulatory oversight of recovery residences and other social institutions in Florida. He did not feel the subject properties would be adequately regulated or inspected, and requested that the Commission deny the Application for relief from occupancy requirements.

Phil Coles, resident, asked whether criminal background checks are being made on clients living in Meridian's recovery residences, and did not feel the location of the subject properties was appropriate for individuals in recovery.

Thomas Curbs, resident, addressed the intent of ADA, which is intended to prevent discrimination against individuals with disabilities. While he agreed that substance abuse constituted a disability, he did not feel limiting the number of residents in a facility to be discriminatory, and felt Town Code was not in conflict with ADA regulations.

Caroline Foster, resident, stated that she shared previously stated concerns with density, as well as concern that residents in the subject properties were not vested in the local community, but were a transient population.

The Commissioners addressed the questions raised during public comment, including restrictions on the distance between residences used for recovery. Town Attorney Trevarthen explained that the referenced State Statute regulates community residential homes licensed under the Statute; it is not applicable for the types of residences under discussion. She also clarified that occupancy and Town's definition of family are the same in every residential zoning district, as is the ability to seek zoning relief from these restrictions.

It was noted that surveys of the subject properties are included in the Commissioners' backup materials as Exhibit C2, and include parking schematics. The Applicant has accepted this number of parking spaces as a condition of approval. It was clarified that most persons in the subject properties do not bring personal vehicles to the property.

Town Attorney Trevarthen continued that the theory behind the density request is that individuals in recovery need a communal living environment in the same way that an individual in a wheelchair might need a ramp. Staff has supported the standard of no more than two persons per bedroom in the two- and three-bedroom units. The effect of tonight's decision would be solely whether or not to allow additional individuals (beyond the Town code's restriction to three non-related residents) to live at the subject properties.

Mr. Langeraar said that a minimum of three behavioral health technicians will be present per shift. Mr. Lynne added that Meridian is licensed under the category of "Day or Night Treatment with Community Housing," which mandates the presence of staff on the premises; however, this mandate is not typically monitored by regulatory entities, but is self-regulated. The average length of stay in a recovery residence is between 45 and 90 days.

With respect to the issue of expansion of Meridian's operations in the Town, Town Attorney Trevarthen advised that she was not aware of any way in which Meridian can be regulated differently in order to limit this possibility. Mr. Lynne said this could be achieved by lobbying the League of Cities, League of Counties, or elected officials, and encouraged the community to help determine whether the concentration of recovery residences was beneficial to or hindered recovery.

Town Attorney Trevarthen confirmed that the only licensing requirements that exist are required for Meridian's treatment facility, which is located in a business-zoned property. The units in question are not treated as a business, but are legally a residential use, which means business tax receipts (BTRs) are not required.

Regarding the necessity of a referendum in order to make zoning changes, Town Attorney Trevarthen explained that the Town's charter requires a referendum when a new zoning district is created or property is rezoned for another use, neither of which would occur in this case.

Ms. Parks clarified that all Meridian staff members undergo criminal background checks, while all clients are screened with regard to their history. Clients whose backgrounds raise legal concerns are not admitted to the residences. There are no regulations related to the proximity of recovery residences to commercial restaurants or bars.

Town Attorney Trevarthen addressed the issue of requiring another property between the subject properties and other residential units, explaining that this is not possible under Federal law, as patients in Meridian's units are protected by the requirements of standard residential use. She continued that in the event of a relapse by an individual living in one of the subject units, that individual would no longer be part of the program. This is addressed in the conditions proposed by Staff, which state that if an individual is removed from the program, s/he will be removed from the property to a location outside the community.

Commissioner Dodd asked if there were any means of preventing Meridian to continue to purchase properties in the subject neighborhood or on Tradewinds Avenue. It was clarified that in order to request any further relief from the Town, Meridian would need to demonstrate that the purchase of additional units would not fundamentally alter local zoning. A proliferation of units with greater density than homes in the surrounding neighborhood would serve to make this alteration, at which point Federal law enables municipalities to draw a line.

Commissioner Sokolow requested clarification of the typical age group of persons living in the subject properties. Mr. Langeraar stated that this age group extends from the early 20s to individuals in their 70s, with most residents between the ages of 25 and 45.

Commissioner Brown requested clarification that under ADA regulations, communities may not deny facilities such as Meridian the right to open. Town Attorney Trevarthen confirmed this, reiterating that residents of the subject units may not be treated differently from other duplex residents.

Mr. Lynne advised that lowering the number of individuals who may reside in a recovery residence contributes to the possibility of isolation and loneliness, which increases the likelihood of relapse. He asserted that individuals living in units with shared bedrooms learn how to develop social skills and ameliorate the effects of addiction and substance abuse, which is the reason the Applicant has requested that two individuals be placed per bedroom.

The Town Attorney noted that municipalities may decide not to grant requests such as these in full: they may also grant requests in part or deny them altogether. However, there must be a basis for granting a request in part or reducing the number requested. Commissioner Brown observed that the Applicant has expressed willingness to limit residence in the subject units to two persons per bedroom when they could have requested more. Town Attorney Trevarthen pointed out, however, that there would be no basis for allowing the units to be overcrowded.

Commissioner Brown asked if there is a limit on the number of recovery residences that may be opened on one street or in one neighborhood. Town Attorney Trevarthen replied that case law places this limit: if the proliferation of recovery residences becomes sufficiently extreme to undermine the purpose of the Town's zoning Code or fundamentally alters the zoning scheme, a municipality may deny requests such as this one. Mr. Langeraar confirmed that Meridian Treatment Solutions will continue to grow, although there are no plans to purchase further properties in the Town at this time.

Vice Mayor Vincent commented that while the Commission may ask questions related to the Applications, it seemed that their hands were tied. He observed that treatment does not occur at the residential units, but at Meridian's facility located in a B-1 zoning district; furthermore, as long as persons living at the residences are not using alcohol or

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drugs, they are considered disabled under Federal law. He noted that denials of zoning relief are frequently litigated by Applicants, which can result in large costs to local governments.

Mayor Sasser asked if the Applicant was willing to request fewer parking spaces than proposed in Staff's recommendations, as clients do not have access to their cars. Mr. Langeraar did not agree to this request, pointing out that Meridian staff needs parking spaces. Town Attorney Trevarthen pointed out that treatment does not occur at the residences, and parking for this purpose should be limited to Meridian's office facility.

Mr. Langeraar also addressed the Staff condition that would require Meridian to remove the swale cutout on East Tradewinds Avenue, as a neighboring property has the same cutout. Asst. Director Connors replied that it is Town practice for Staff to work with property owners to remove swale cuts and asphalt to improve drainage when property owners submit applications for approval.

With no other individuals wishing to speak, Mayor Sasser closed public comment. Mayor Sasser indicated he felt tremendous pride in the Town residents for having voiced their opinions with decorum and politeness and he thanked them for that.

The Commissioners discussed the Items, with Commissioner Dodd noting that no medical treatment occurs on the premises of the subject properties and reiterating that Federal law prevents discrimination based on the status of their residents. He supported Staff's recommendation limiting the number of residents to six individuals rather than seven, and emphasized that Staff would ensure any permitted uses are strictly enforced on the properties.

Commissioner Sokolow made a motion, seconded by Commissioner Dodd, to adopt Staff's recommendation as presented [for Item 16a]. Motion carried 5-0.

Commissioner Dodd made a motion, seconded by Commissioner Sokolow, to approve [Item 16b]. Motion carried 5-0.

The Commission took a brief recess at this time.

6. PUBLIC COMMENTS

At this time Mayor Sasser opened public comment.

Barbara Cole, resident, thanked the Town Commission and Town Staff for their recent work to improve the Town, and encouraged all residents to sign up for e-alerts in order to remain updated on the El Mar Drive Greenway and other public improvements. She recommended allowing changes by hoteliers to improve the El Mar Drive area.

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Sunny Eckhardt, resident, advised that residents of the Silver Shores neighborhood plan to start a Silver Shores Property Owners' Association in order to address some of the issues in that community. She invited interested parties to email lbtssilvershores@gmail.com.

Edmund Malkoon, resident, stated that he has attempted to discuss the demise of the Little Inn with Town Staff and the Town Commission, but was frustrated by the lack of response. He did not agree with the characterization of the property as "too far gone" and asserted that its demolition was rushed. He concluded that Town leaders have a responsibility to respond to residents' concerns and opinions in a timely manner.

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

7. PUBLIC SAFETY DISCUSSION

a. BSO April 2015 Report (Captain Fred Wood)

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

b. AMR April 2015 Report (Chief Brooke Liddle)

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

c. VFD April 2015 Report (Chief Judson Hopping)

Commissioner Dodd made a motion, seconded by Commissioner Sokolow, to approve.

8. TOWN MANAGER REPORT

a. Town Manager Report (Connie Hoffmann, Town Manager)

Town Manager Connie Hoffmann requested direction from the Commission regarding the inclusion of bollard lights for the middle two blocks of the Commercial Boulevard Streetscape project. Both the designer and State Contracting have expressed concern about this proposed installation. The Commissioners agreed by consensus to eliminate bollards from the streetscape plans.

Commissioner Brown commented that several condominiums in the Town have received a letter from the County, requesting signatures to allow an easement that would place sand in front of their buildings. Town Manager Hoffmann confirmed that a County representative is willing to meet with these representatives. Commissioner

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Brown emphasized the need to ensure that all condominium representatives are aware of this upcoming meeting.

Commissioner Dodd made a motion, seconded by Commissioner Brown, to extend the meeting to 11:30. Motion carried 5-0.

Commissioner Dodd asked if Staff had considered a form of artificial reef called "reef balls," or hollow concrete spheres. Town Manager Hoffmann replied that Staff would look into this material. The Commissioners provided unanimous consensus to have Staff begin the application process for a permit for an additional artificial reef.

9. TOWN ATTORNEY REPORT

None.

10. APPROVAL OF MINUTES

None.

11. CONSENT AGENDA

Mayor Sasser pulled Items A and C for discussion.

- a. Work Authorization for Zoning Amendments for the Annexed Areas (Linda Connors, Assistant Development Services Director / Town Planner)**

Town Manager Hoffmann confirmed that this Item appears on the Commission's priority list.

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

- b. Town Participation in the Broward County Temporary Debris Sites (Don Prince, Municipal Services Director)**

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

- c. Authorize a Contract with PayByPhone Technologies, Inc., for Payment of Parking Fees by Phone (Bud Bentley, Assistant Town Manager)**

Finance Director Tony Bryan confirmed that the Town will not pay the credit card interchange fee for these transactions.

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

12. OLD BUSINESS

a. Neighborhood Improvement Reserve (Tony Bryan, Finance Director)

Finance Director Tony Bryan recalled that at the April 28 meeting, Town Staff had been asked to bring back a recommendation for the segregation of collected Code Enforcement fines from the General Fund. Staff has calculated the net Code Enforcement fines collected for the year, less all payments to Calvin Giordano, the Code Magistrate, and any attorneys' fees for Code Enforcement claims settled and paid within that year. Using the proposed methodology in 2014, the Town would have had net funds of approximately \$161,000, less attorneys' fees. However, last year was unusual in that we had received a single \$300,000 payment from Florida Development Group and in earlier years there would have been no net revenues. Finance Director Bryan concluded that in his opinion, this calculation and segregation were unwarranted.

Commissioner Dodd observed that the intent of this proposed change was to have funds collected through liens serve to fund street art and other public improvements. He suggested increasing the administrative fees collected through lien mitigation.

There was Commission consensus not to segregate the Code Enforcement Fines.

Commissioner Dodd made a motion, seconded by Commissioner Sokolow, to eliminate the Neighborhood Improvement Reserve, allowing the balance to fall to the unassigned balance of the General Fund. Motion carried 5-0.

13. NEW BUSINESS

a. May 26, 2015 Town Commission Meeting Cancellation (Connie Hoffmann, Town Manager)

Commissioner Sokolow made a motion, seconded by Commissioner Dodd, to cancel the next meeting. Motion carried 5-0.

b. FLC Legislative Policy Committee Sign-Up (Connie Hoffmann, Town Manager)

Commissioner Dodd made a motion, seconded by Vice Mayor Vincent, to nominate Commissioner Brown to serve on the Energy, Environmental, and Natural Resources Committee and Mayor Sasser to serve on the Urban Administration Committee. Motion carried 5-0.

14. ORDINANCES

Ordinances 1st Reading

None.

Ordinances 2nd Reading

None.

15. RESOLUTIONS – PUBLIC COMMENTS

- i. 2015-17 – A Resolution of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, revising the Commission Meeting and Agenda procedures; providing for conflicts; providing for severability; providing for an effective date (Susan Trevarthen, Town Attorney)**

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

Town Attorney Trevarthen recalled that this Item was requested at the April 28 meeting. It moves Commissioner Comments to an earlier position on the Agenda, prior to Ordinances and Resolutions, and limits these comments to three minutes each, with flexibility. The Town Manager Report is also amended to reflect actual practice, which provides one report on the status of assignments each month rather than at every meeting.

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

16. QUASI JUDICIAL PUBLIC HEARINGS

- a. Amendment to Conditional Use Application for 216 Commercial Blvd. – Paid Private Parking (Linda Connors, Assistant Development Services Director / Town Planner)**

This Item was deferred until the June 9, 2015 meeting.

- d. Parking Reduction Application for 218 Commercial Blvd. – Paid Private Parking (Linda Connors, Assistant Development Services Director / Town Planner)**

Disclosures were made, and any individuals wishing to speak on this Item were sworn in.

Asst. Development Director/Town Planner Connors explained that this Application requests a reduction of 11 parking spaces at 218 Commercial Boulevard. There are 16 parking spaces on-site, although the current Code requirement is 91. However, if sufficient parking was not available when legislation regulating parking standards was adopted in 1995, the site is considered a legal nonconforming use. But, in the event of increases in parking or the size of the building, the Code provides that additional parking spaces must be provided.

The Applicant wishes to change 3800 sq. ft. of office space to restaurant and retail uses, which would result in a required increase of 11 parking spaces. It was also noted that the property owner manages the adjacent property, where parking is also deficient. The two buildings together have a deficiency of 147 spaces. Because the Applicant is requesting a reduction of more than three spaces, the Application must come before the Town Commission for review after it is reviewed by the Board of Adjustment.

Because this is Level II approval, a parking study is also required by the Town. Asst. Director/Town Planner Connors advised that Town parking consultant Desman and Associates reviewed the request and recommended denial of the Application, as they found the criteria for approval had not been met. The Board of Adjustment recommended approval by a vote of 3-1.

Staff believes there is insufficient parking on the site, and suggests that, if the Commission recommends approval, they must show there is sufficient available public parking, adequate to accommodate the request and located within a reasonable walking distance of the subject property along a practical pedestrian route.

Kim Munger, representing the Applicant, referred to the Applicant's success in turning the properties around and making it a place residents and tourists wish to visit. She advised that the change from office to retail and restaurant space would represent the last restaurant the Applicants wish to open on the site.

The Commissioners discussed the request, confirming that both a restaurant and a retailer have already signed leases and begun the permitting process to use this space. Ms. Munger noted that the Applicants had not been aware until permitting began that the outdoor portion of the restaurant must also comply with parking requirements.

Commissioner Brown characterized bringing new restaurants and retail into the Town as continued improvement, and advised that these businesses open at their own risk if parking is not sufficient to their needs. Commissioner Dodd did not agree, asserting that having a tenant should not be considered relevant to the Application and noting that the Applicant has already received exemptions from parking spaces through the Town's

parking exemption program. He pointed out that granting the request would affect other buildings and businesses by creating additional parking demand.

Vice Mayor Vincent observed that the existing restaurant at 218 Commercial Boulevard is not suffering due to its lack of parking, and felt the market will dictate the success or failure of other tenant businesses. Commissioner Sokolow added that parking difficulties occur more regularly during some business hours than at others, and expressed support for a new restaurant in the area.

Mayor Sasser expressed his opinion that the Town needs a defined program for property owners to bear some of the cost of providing parking in order to provide greater structure for decisions such as this one.

Commissioner Dodd made a motion, seconded by Commissioner Sokolow, to extend the meeting until 11:45. [Motion carried by consent.]

Asst. Town Manager Bentley suggested that the current request could be approved with the requirement that they purchase permits in the A1A lot for the existing permit fee, similar to what was done with 101 Ocean restaurant. When a payment in lieu program is established, they may continue to purchase these permits or convert to a one-time payment. He commented that giving the applicant a parking exemption was a free market example of the private sector transferring their costs to the public.

Town Manager Hoffmann concurred with Mr. Bentley's assessment. She pointed out that if the Town ultimately erects a parking garage or purchases more land for parking in order to accommodate increased parking demand, the Town would effectively be assuming the burden of cost of providing parking that was the responsibility of a commercial property owner.

In answer to a Commissioner's inquiry, Asst. Town Manager Bentley estimated that the cost of parking permits in the A1A lot would cost roughly \$30/month. The Town Manager noted that the cost of these permits has not been adjusted for years and should be increased to the average meter income for the lot.

Commissioner Sokolow made a motion, seconded by Commissioner Dodd, to approve with a monthly fee.

It was clarified that the motion would charge the Applicant the current monthly fee for 11 permits in the A1A parking lot. Vice Mayor Vincent asserted that he would prefer to approve the Application without this requirement and develop a parking program for the future before hearing other applications for reductions.

Commissioner Sokolow withdrew the motion.

Town Manager Hoffmann noted that the applicant – the commercial property owner- will receive more income from restaurant and retail uses than from office spaces, but the owner's representative was asserting the tenant could not afford to pay for parking. That implied the property owner was not willing to absorb any of the cost of the additional parking demand the change of use would generate, despite enjoying additional revenue. She felt the property owner should absorb some of the cost of parking. Although the parking consultant said that funds collected through a payment in lieu of parking would never raise sufficient money to build a parking garage or acquire more parcels for surface parking, she felt the monies paid could help to create eleven new parking spaces over time.

Commissioner Dodd made a motion, seconded by Vice Mayor Vincent to continue the meeting for another five minutes. Motion carried 5-0.

Commissioner Dodd made a motion to approve a monthly fee similar to that charged to 101 Ocean. [The motion died for lack of second.]

Vice Mayor Vincent made a motion, seconded by Commissioner Sokolow, to approve the parking reduction of 11 spaces without the condition of a fee, and with Staff to bring forward a program. Motion carried 3-2 (Mayor Sasser and Commissioner Dodd dissenting).

17.COMMISSIONER COMMENTS

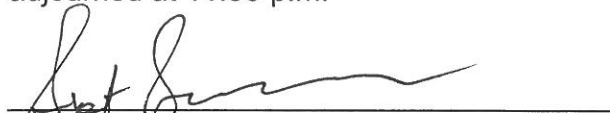
Vice Mayor Vincent recognized Public Information Officer Steve d'Oliveira for his work on a well-received display representing the Town at the Florida Realtors Association meeting at Nova Southeastern University.

Mayor Sasser observed that the Commissioners are placed in a difficult position when asked to make a decision although their hands are tied on a given issue. He thanked all present for their understanding of this difficulty.

Commissioner Brown invited all present to a dance and concert at Jarvis Hall on May 13 from 7-8:30 p.m.

18.ADJOURNMENT

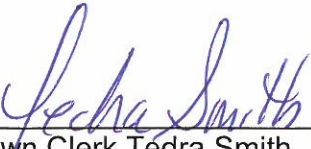
With no further business to come before the Commission at this time, the meeting was adjourned at 11:50 p.m.



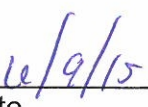
Mayor Scot Sasser

ATTEST:

Lauderdale-By-The-Sea
Town Commission Regular Meeting
May 12, 2015



Town Clerk Tedra Smith



Date

