



**TOWN OF LAUDERDALE-BY-THE-SEA
TOWN COMMISSION
MEETING MINUTES
Jarvis Hall
4505 Ocean Drive
Tuesday, May 10, 2022
6:30 PM**

1. CALL TO ORDER, MAYOR CHRIS VINCENT

Mayor Chris Vincent called the meeting to order at 6:30 p.m. Also present were Vice Mayor Edmund Malkoon, Commissioner Alfred “Buz” Oldaker, Commissioner Theo Pouloupoulos, Commissioner Randy Strauss, Town Manager Linda Connors, Town Attorney Susan Trevarthen, Deputy Town Manager/Public Works Director Ken Rubach, Director of Finance and Budget Lucila Lang, Development Services Director Jhanelle Campbell, Special Events and Marketing Manager Debbie Hime, and Town Clerk Katrina Adler.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION

Pauline Brooks McGuinness gave the Invocation.

4. ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS

Mayor Vincent requested that Item 12.b be heard ahead of Item 12.a under Old Business.

5. PRESENTATIONS

a. Proclamation for “National Police Week” and “National Peace Officers Memorial Day”

Mayor Vincent read a Proclamation recognizing May 15, 2022 as National Peace Officers Memorial Day and the week of May 11-17, 2022 as National Police Week.

b. Proclamation for “National Public Works Week”

Mayor Vincent read a Proclamation recognizing May 15-21, 2022 as National Public Works Week.

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6. PUBLIC COMMENTS

At this time Mayor Vincent opened public comment.

Howard Goldberg, resident, addressed the issue of continued outdoor restaurant seating in the Ocean Plaza, stating that he recalled this was approved by the Commission in January 2022. He felt this agreement constitutes a public/private partnership and prevents unwanted activity in the Plaza.

Brian Paperny, resident, spoke in favor of continued outdoor seating for the Aruba Beach Café and other Downtown restaurants.

Carlos Gianos, resident, also stated that he was in favor of continued outdoor dining for restaurants.

Ken Brenner, resident, provided a written copy of his public comment regarding Item 12.b.

David Saindon, resident, stated that he was supportive of continued use of the Ocean Plaza by the Aruba Beach Café for outdoor dining.

Town Clerk Katrina Adler read the following public comments submitted via email:

- Bill Ciani, resident, explained that while he was not opposed to the use of the Ocean Plaza for outdoor seating, he opposed the loss of public beach access through the Pavilion area.
- Robert and Mary Lyle, residents, opposed the reduction or elimination of outdoor dining in the Ocean Plaza, citing its positive impact on the Town.
- Tim Ramey, resident, also opposed limitation or elimination of outdoor dining in the Ocean Plaza.
- Shevaun Steward-Kuhn, resident, also opposed the reduction or elimination of outdoor dining in the Ocean Plaza.
- Eric and Leaa Johaskey, residents, stated their support of the continued use of sidewalks and other public spaces for outdoor dining and sidewalk cafés.
- Scot Sasser, resident, addressed Item 12.b, Resolution 2022-22, urging the continued use of extended sidewalk dining and use of the Connie Hoffmann Plaza by the Aruba Beach Café. He also recommended that the Commission determine policies and procedures for the continued use of this Plaza by patrons of the restaurant, visitors, and residents.

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- William Powell, resident, expressed support for continued outdoor dining.
- The Powells also stated their support for continued outdoor dining.
- Dan Moscow, resident, spoke in favor of continued expanded outdoor dining in the Plaza.
- Wayne Dillistin, resident, also spoke in favor of allowing the Aruba Beach Café to continue using the Ocean Plaza for expanded outdoor dining.
- Mark Silver, resident, also spoke in favor of continued outdoor dining in the Downtown area and Ocean Plaza and its positive impact on other businesses.
- Ken Brenner, resident, also spoke in favor of allowing Aruba Beach Café to continue using the Ocean Plaza for outdoor dining.

Town Manager Linda Connors advised that she and Town Clerk Adler had checked all emails sent to her address or to “public_comments.” Emails directly to the Mayor, Commissioners, or Town Manager may not have been included. Mayor Vincent requested that these emails be read when the Agenda arrives at Item 12.b.

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

7. PUBLIC SAFETY DISCUSSION

None.

8. TOWN MANAGER REPORT

a. Town Manager Report for May 10, 2022

Town Manager Connors reported that Public Works Director Ken Rubach has been promoted to the position of Deputy Town Manager. He will also continue in his role as Director of Public Works. Gordon Chase has been promoted to Municipal Services III and will oversee the Downtown area. Katrina Adler, formerly of the Development Services Department, has been promoted to the position of Town Clerk.

Town Manager Connors continued that she and Deputy Town Manager/Public Works Director Rubach have met with Pompano Beach’s Assistant Town Manager and City Engineer regarding Terra Mar Drive. That city has completed a speed study on the roadway, but saw no speeding that warranted changes to the street. They have, however, agreed to re-stripe Terra Mar Drive by June 2022, which may help with traffic calming.

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Town Manager Connors continued that the intersection of Terra Mar Drive and Ocean Drive falls under the Florida Department of Transportation's (FDOT's) jurisdiction. Pompano Beach has agreed to work with FDOT to encourage a redesign of this intersection that would slow traffic turning from Ocean Drive onto Terra Mar Drive.

The last day of the Farmers Market was May 1, 2022. It will be brought back the following year.

Lobster mini-season will be from July 26-30, 2022. Special Events and Marketing Manager Debbie Hime is working on this year's Bugfest event, which will be brought back on the next Agenda for Commission consideration.

The United Way Gala was held the weekend of May 7-8, 2022. Town businesses raised over \$1700 for this organization. Town Manager Connors thanked the businesses that donated to this event.

The Town will hold a Downtown redesign workshop at 6 p.m. in Jarvis Hall on May 16, 2022. Town Manager Connors encouraged the public to attend this meeting.

Ann Marchetti, resident, asserted that the current Farmers Market vendor, Community Markets of South Florida, is the best provider of markets in the area, with four local markets in the Broward area. She recommended that the Market not be put out for bid after its past several successful years, and that extension of hours, more signage and space, and a new configuration be explored as additional opportunities.

Commissioner Oldaker recommended that once Terra Mar Drive has been re-striped, Town Staff should also consider taking this step for Hibiscus Drive.

9. TOWN ATTORNEY REPORT

None.

10. APPROVAL OF MINUTES

- a. Approval of Minutes: April 12, 2022 Town Commission Meeting & April 18, 2022 Special Town Commission Meeting**

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Commissioner Oldaker made a motion, seconded by Commissioner Pouloupoulos, to approve. Motion carried 5-0.

11. CONSENT AGENDA

- a. Award of Renewal Contract to Granicus for Agenda Management and Video Streaming Services – RFP No. 18-07-01 (Linda Connors, Town Manager)**

Commissioner Oldaker made a motion, seconded by Commissioner Pouloupoulos, to approve. Motion carried 5-0.

12. OLD BUSINESS

The following Item was taken out of order on the Agenda.

- b. A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, PROVIDING FOR THE CONTINUED USE OF CONNIE HOFFMANN PLAZA FROM APRIL 15, 2022 THROUGH JULY 31, 2022.**

At this time Mayor Vincent opened public comment.

Barbara Cole, resident, felt the Commission has displayed dysfunction over its past few meetings, and expressed concern that Commissioner Pouloupoulos had indicated his intent to recuse himself from voting on any issues in which a family member was involved. She stated her support for Aruba Beach Café and its continued use of the Ocean Plaza for outdoor dining.

Mary Ellen Renuart, resident, questioned whether or not the continued use of the Ocean Plaza by the Aruba Beach Café is in the Town's best interests. She recalled that use of the Plaza by the restaurant during the upcoming Memorial Day, July 4th, and Bugfest was discussed in April, and is no longer presented as a question at tonight's meeting. She concluded that she would like to see further discussion of this Resolution, including the possibility of reclaiming public space.

Ann Marchetti, resident, reviewed the chronology of the Commission's previous actions to expand outdoor dining in the Ocean Plaza and on the Downtown sidewalks from summer 2021 to the present. She emphasized the importance of safety following the

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pandemic and recommended against action that could divide Downtown businesses, which have expressed their wishes at the October 26, 2021 Commission workshop.

Lawrence Wick, resident, recommended that expanded outdoor dining in the Ocean Plaza and on sidewalks be extended until October 31, 2022 rather than until July 31, as this would help the community.

Nectaria Chakas, representing Aruba Beach Café, recalled that the restaurant was significantly affected by the COVID-19 pandemic, and that the use of the Ocean Plaza has been instrumental in its survival. She noted that demand continues to be high for outdoor dining, and that the proposed expansion of outdoor seating into former parking spaces recognizes this need. She stated that Aruba would like to continue to use the Ocean Plaza at least during the same extended outdoor seating time frame offered to other Downtown restaurants.

Ms. Chakas also recalled that there may have been a perception that this issue was settled at a January 2022 meeting, and that bringing back the policy for further review may have been seen as a formality. She requested that use of the Plaza by her client be continued past the July 31, 2022 deadline proposed in the Resolution, noting that the restaurant would pay for this use and continuation of the policy would be subject to annual review. She also pointed out that the Dune Plaza continues to provide public space.

Town Clerk Adler read the following emails addressing Item 12.b:

- Roseann Minnet, resident, spoke in opposition to an extension for Aruba Beach Café's use of Connie Hoffmann Plaza, as the Plaza is intended to serve as public space.
- Diana Kugler, resident, spoke in opposition to the waiver allowing continued restaurant use of the Connie Hoffmann Plaza as well as the extension of use of Downtown parking areas for outdoor dining.
- Kristen Cannon, resident, expressed concern with the possible elimination of the outdoor dining area in the Plaza, which she felt would be a mistake.
- Alana and Reg Brady, resident, spoke in favor of continued outdoor dining in the Ocean Plaza for the Aruba Beach Café.
- Jim Silverstone, resident, recalled that at a previous meeting, the Commission had voted in favor of the continued use of the Ocean Plaza by Aruba Beach Café, with Town Staff to determine details, including annual review of the policy.
- Jay Flynn, resident, stated that the Ocean Plaza should remain public space rather than providing for its rental by restaurants. He noted that this space is

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compliant with the Americans with Disabilities Act (ADA), and concluded that the July 31, 2022 deadline would allow the restaurant time to transition away from use of the Plaza.

- Mary Ann Wardlaw, resident, spoke in favor of continued outdoor seating for the Aruba Beach Café at the Ocean Plaza, as COVID-19 remains a concern.

Commissioner Oldaker requested an explanation of issues that have been raised at tonight's meeting, including what occurred at the April 26, 2022 meeting. Town Attorney Trevarthen advised that the expansion of outdoor dining began earlier during the COVID-19 pandemic. As state and local emergency orders expired, the Town wished to maintain this expansion; however, this continued use violated Town Code for sidewalk cafés, which included specifications for the use of barriers and location of tables.

As a result, the Town created a Code provision that allowed the Commission to waive the Code requirements for sidewalk cafés due to extraordinary circumstances for a period of no more than six months. This waiver originally addressed payment of business tax receipt (BTR) café fees and the location of tables and barriers; however, beginning in October 2021, this scope was amended to reinstate payment for the main portions of sidewalk cafés and provide a waiver for the use of tents. This Resolution also provided for the extension of Aruba Beach Café's use of the Ocean Plaza.

In 2014, the Commission approved a policy that would govern use of the Ocean and Dune Plazas and the Pavilion. This included the standard that a private entity may only use the Plaza four times per year. The Resolution, through its conflict clause, dealt with this policy. Addenda were also processed for all sidewalk cafés so the expanded areas were included, indemnification provided, and location of tents determined.

The Town then held a number of meetings and presentations with the intent of determining direction to redevelop the sidewalk cafés. In the meantime, Town Staff also received direction via discussion of how the 2014 policy might potentially be changed. This discussion occurred at the January 25, 2022 meeting. There was also discussion among the Commission regarding the potential language of a new Resolution. Town Attorney Trevarthen noted that this meeting provided direction for Town Staff to come back with a Resolution to amend the 2014 policy controlling use of the Plazas. This Resolution was on the Commission Agenda at the April 26 meeting.

The primary difference between the Resolution presented on April 26 and the 2014 Resolution is its creation of rules for the indefinite continuation of dining use in the Plaza. These rules included various standards as well as annual review. It also included

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minor updates to the use of the Dune Plaza and the Pavilion. The Commission discussed this Resolution at length, and a motion was made and seconded for its approval. Commissioner Poulopoulos did not vote on the Resolution due to a conflict of interest, and the Resolution failed by 2-2 vote.

Commissioner Oldaker also requested additional explanation on why only four Commissioners will vote on the item, noting that Commissioner Poulopoulos had recused himself from voting on the Resolution, and that the Town Attorney had indicated this was an appropriate decision. Town Attorney Trevarthen explained that upon his election as Commissioner, Commissioner Poulopoulos had reached out to her to inquire about his circumstances. She and attorney Robert Meyers, who leads the firm's ethics practice, had determined that for purposes of state law, the interest of a relative is treated as though it were the interest of the individual who is voting.

In the state of Florida, Commissioners are required to vote and may not pass on this responsibility unless there is a conflict of interest, which is defined as economic in nature and redoubting to benefit or detriment. Attorneys Trevarthen and Meyers identified that this conflict existed in Commissioner Poulopoulos's case with regard to both the Plaza policy, which could potentially benefit Anglin's Pier Restaurant, as well as on material changes to the Town's sidewalk café program. This was provided as a written opinion and shared with Town Administration and members of the Commission.

Town Attorney Trevarthen emphasized that Commissioner Poulopoulos is not prevented from serving as Commissioner due to this conflict, and that it remains clear he is able to serve in this capacity.

Commissioner Poulopoulos commented that state law requires him to recuse himself from voting if he has a conflict of interest due to a family member. He pointed out that he requested an opinion from the Town Attorney prior to his being sworn in as a Commissioner, as he wished to ensure he was acting in an ethically correct manner.

Commissioner Oldaker observed that during the discussions that led to the vote at the April 26 meeting, he had specifically requested that a decision be delayed so more conversation could be held. Tonight he had brought forward a Resolution, which includes an ending date for the use of the Ocean Plaza by Aruba Beach Café for the purposes of additional discussion. He also pointed out that outdoor dining occurs throughout the Town, not only in the Plaza or in front of other Downtown restaurants; however, in order to separate these two issues, the Ocean Plaza must be dealt with separately from the café-licensed areas.

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Commissioner Oldaker continued that in his opinion, the Ocean Plaza is the same as a public park and deserves special attention as such. He concluded that he was open to discussion on the issue of use of the Ocean Plaza and what the Town plans to do there in the future.

Commissioner Strauss commented that he felt the same extension should be proposed for Items 12.a and 12.b, and agreed with Commissioner Oldaker that the Commission may need more time to consider the issues and sort them out. This would allow them to create an appropriate amendment to the existing 2014 policies and procedures that would allow for the continued use of the Ocean Plaza.

Commissioner Strauss continued that due to the ongoing nature of COVID-19, there is still an increased demand for outdoor dining. He felt the Commission can ensure there is space for the public on the Downtown sidewalks and in the Plazas for visitors and restaurants to coexist.

Commissioner Strauss made a motion to extend the findings of extraordinary circumstances for the use of the Connie Hoffmann Plaza by Aruba Beach Café through November 10, 2022.

It was noted that this proposed amendment to the Resolution would continue use of the Plaza for another six months as opposed to another three months.

Vice Mayor Malkoon stated that at present, use of the Ocean Plaza remains separate from the Town's sidewalk café Ordinances. Because it was previously voted down, the Commission may not approve its use indefinitely; the intent is to provide an extension so use of this space may wind down. He pointed out that while the Town has worked to support its businesses, the Ocean Plaza remains a public space.

Commissioner Malkoon continued that his issues with the proposed Resolution include creating an Ordinance that violates another Ordinance with a potentially open-ended time frame. Another concern is that while the proprietor of Aruba Beach Café has offered to pay \$8000/month for continued use of one-third of the Plaza, there has been no Commission discussion of this offer. He appreciated the importance of Aruba to the Town, and advised that he was in favor of allowing that business an extension so they could wind down their use.

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Mayor Vincent asked if the Commission may vote on a topic that violates an existing Ordinance. Town Attorney Trevarthen advised that this Resolution, as did the Resolution passed in October 2021, includes a conflicts clause, which states that all Resolutions that conflict with the one being passed are hereby repealed to the extent of the conflict. If a vote this evening is successful, the 2014 policy would remain on the books, but would not be in effect until the agreed-upon date established by the Commission.

Mayor Vincent clarified that the space under consideration for use by sidewalk cafés consists of right-of-way space rather than public space. He noted that when the 2014 Ordinance was created, it included the specific intent of not allowing certain activities in the Plazas except at specific times; however, the 2014 Ordinance may be revisited for a potential change of use due to extraordinary circumstances.

Mayor Vincent asserted that the Ocean Plaza was never public space in the sense that it was an area owned and used by residents; instead, this space was previously used for parking for many years prior to the 2013 revitalization of the Downtown area. He did not feel continued use of the Plaza by a restaurant would constitute a loss of long-standing public space.

Mayor Vincent continued that the Commission voted 5-0 in January 2022 to continue to allow outdoor dining in the Plaza and change the Town's policies accordingly. He felt there had been overwhelming consensus in favor of continued use of the Plaza, and he was disappointed the Commission had not acted upon the wants and desires of residents and visitors to continue this use. He concluded that the Plaza should be used in the manner most beneficial to the Town, and that the best way forward would be to amend the proposed Resolution to a six-month time frame.

Commissioner Poulopoulos thanked the residents who had reached out to him on this issue, and noted that while conflict had prevented him from voting on the previous Resolution on this subject, he would be able to vote on the current proposal. He agreed that the Town, including both residents and visitors, benefits from outdoor dining, and this is the best use for the subject area.

Commissioner Poulopoulos seconded the motion to amend the Item. Motion carried 4-1.

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Town Attorney Trevarthen clarified that with the passage of the amendment, the deadline cited in the Resolution has now been changed to November 10, 2022. The Resolution itself is still alive as amended, and has not yet been voted upon.

Commissioner Strauss made a motion, seconded by Commissioner Oldaker, to approve the Item. Motion carried 4-1.

- a. **A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, PURSUANT TO THE TOWN CODE OF ORDINANCES SECTION 2-27 "WAIVER OF CODE REQUIREMENTS," FINDING THAT THE PENDING REDESIGN AND APPROVAL OF PLANS FOR EXPANSION OF THE SIDEWALKS ALONG COMMERCIAL BOULEVARD, A1A, AND EL MAR DRIVE REPRESENTS AN EXTRAORDINARY CIRCUMSTANCE JUSTIFYING THE CONTINUED WAIVER OF CERTAIN REQUIREMENTS OF CHAPTER 17, "STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES," SECTION 17-89 "SIDEWALK CAFÉ PERMIT STANDARDS AND REQUIREMENTS," FOR SIDEWALK CAFÉS FROM APRIL 15, 2022 THROUGH NOVEMBER 10, 2022; PROVIDING REQUIREMENTS FOR THOSE USING THE WAIVERS.**

At this time Mayor Vincent opened public comment.

Barbara Cole, resident, recommended that in the future, the Commission remember that they represent the residents of the Town.

Ann Marchetti, resident, reiterated her previous comments regarding the expansion of outdoor dining and use of the Plaza since May 2021. She noted that this issue was discussed at 19 of 24 public meetings since that time, with minor changes and evolution of ideas. She felt these continued discussions were unnecessary and the Commission should move forward with the plan they endorsed in January 2022.

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

Commissioner Strauss made a motion, seconded by Commissioner Oldaker, to adopt the Resolution.

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Commissioner Poulopoulos stated that he would abstain from voting upon this Item due to a conflict of interest.

Commissioner Strauss asked if it would be possible to craft future Resolutions with some type of separation between issues on which Commissioner Poulopoulos may or may not be able to vote due to his conflict. He cited the example of the earlier motion regarding use of the Ocean Plaza, pointing out that this motion, and its amendment, was separated from the issue of sidewalk cafés, on which the conflict exists. He suggested that the Item which is now before the Commission could be worded in a manner that does not include the property that constitutes the conflict. Town Attorney Trevarthen advised that Staff would take this request into consideration in the future.

Commissioner Poulopoulos noted that he cannot vote upon Item 12.a as it is currently written, due to his conflict of interest; however, he has spoken with Town Attorney Trevarthen and Assistant Town Attorney Meyers, and received an opinion that in this instance, where multiple sidewalk licenses are being discussed and the conflict is minor, he is able to make a motion to separate a vote on Mulligan's restaurant from the other sidewalk café licenses, if that is the desire of the Commission.

Commissioner Poulopoulos made a motion to request that the Commission separate Mulligan's from this Resolution so it would be possible for him to vote upon it, and he would abstain from any separate vote on Mulligan's. Vice Mayor Malkoon seconded the motion.

Town Attorney Trevarthen explained that the Resolution before the Commission covers all sidewalk cafés that benefit from the ongoing extraordinary circumstance. These are the restaurants which have addenda to their sidewalk café agreements to allow for dining in the parallel parking spaces. One of these restaurants is Mulligan's, of which Commissioner Poulopoulos' father-in-law has a partial interest. Commissioner Poulopoulos' **motion** would separate Mulligan's from the other restaurants affected by the Resolution, which would mean once all five Commissioners have voted upon the amended **motion**, a separate motion would be required regarding Mulligan's, and Commissioner Poulopoulos would abstain from that vote.

Motion to amend carried 5-0.

Commissioner Poulopoulos made a motion, seconded by Commissioner Strauss, to approve the amended motion.

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Commissioner Oldaker requested an update on fees associated with sidewalk cafés. Town Manager Connors advised that the current requirement is for these restaurants to pay fees associated only with their sidewalk cafés, not including the former parking spaces.

Commissioner Oldaker asked why the previously existing sidewalk café spaces have not been separated out from the former parking spaces, recalling that he had requested an update on this information at previous meetings. Development Services Director Jhanelle Campbell replied that the invoices for sidewalk cafés were sent out via email on April 20, 2022 and via certified mail on April 22, 2022. To date, the Town has received payment in full from three restaurants and partial payment from one. Responses from the 12 remaining restaurants are pending, and two restaurants have contacted the Town to request a payment arrangement. This will be the total sidewalk café payment for fiscal year (FY) 2021-2022.

Commissioner Oldaker asked how the Commission wishes to address the additional right-of-way space for sidewalk cafés. He suggested that the Town charge the same rate for the parking spaces as for the existing café spaces, as there has been no discussion of a new rate.

Town Attorney Trevarthen explained that the Item was successfully amended to exclude Mulligan's, and the **motion** before the Commission is on whether or not to approve the Item with this exclusion. If no changes are made to address fees, the Town will continue to collect for the main sidewalk café areas but not for the extensions into the former parking spaces.

Motion carried 5-0.

Town Attorney Trevarthen noted that the Commission, with the exception of Commissioner Pouloupoulos due to his conflict, may now address Mulligan's individually.

Vice Mayor Malkoon made a motion, seconded by Commissioner Strauss, to approve. Motion carried 4-0 (Commissioner Pouloupoulos abstaining).

c. Motion to Reconsider Resolution 2022-17

Commissioner Strauss recalled that the Commission had voted on this Resolution, which addresses meeting procedure, at the previous meeting. One of the issues before the Commission was the provision of documents, including PowerPoint presentations

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and exhibits, 48 hours prior to meetings so the Commission may review them. The vote in favor of the Resolution had removed this requirement.

Commissioner Strauss recalled that at the same meeting at which Resolution 2022-17 was discussed, exhibits were presented as part of a PowerPoint presentation which had not been included in the Commissioners' Agenda packets. He had not felt this afforded sufficient time to prepare for discussion of the exhibits at that meeting. For this reason, he felt strongly that the Commissioners should have the opportunity to see any exhibits to be presented at Town meetings at least by the Friday preceding the Commission meeting, if not earlier, to the extent feasible. If this is not feasible, he recommended that the item be postponed to the next meeting.

Vice Mayor Malkoon asked if Staff has the ability to provide documents and exhibits within this time frame. Town Manager Connors replied that Staff prepares the Agenda during the week prior to the Commission meeting.

Vice Mayor Malkoon expressed concern that if an item is postponed until the next Commission meeting, a great deal can happen in that two-week period. He also observed that prior the COVID-19 pandemic, when "virtual" meetings became the norm, public comments were not allowed to be submitted via email. He recommended that this be addressed in the Resolution as well if the Commission wishes to extend the practice of allowing comments by email.

Town Attorney Trevarthen clarified that the Town has always received written input on Agenda Items; however, in the past these comments were not always read aloud. This practice changed due to the pandemic. The procedural question would be whether or not the Commission wishes to indefinitely continue reading these comments aloud.

Commissioner Poulopoulos agreed that he would like to see presentations or exhibits at least 24 hours in advance of Commission meetings. He pointed out that if the deadline is set at 48 hours in advance, this would mean items are provided to the Commission on Sunday evenings.

Mayor Vincent recalled that he had not disagreed with Resolution 2022-17, pointing out that many presentations are already available through the Town's Planning and Zoning Board meetings and could be brought forward to the Commission 48 hours in advance of their meetings. He agreed that it can be difficult to defer items until the next Commission meeting, as their time frames may be critical.

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Mayor Vincent asked if the Resolution can be reconsidered at tonight's meeting or if it should be brought back at a later date. Town Attorney Trevarthen stated that the meeting procedure Resolution ensures if no action is taken, this Item would come back at the next scheduled meeting for another vote. The Commission has the option of waiving this if they wish.

Commissioner Pouloupoulos advised that he had considered amending the proposed deadline from 48 hours to 24 hours. Town Manager Connors noted that if the Item is not voted upon tonight, it would be rolled forward to the next meeting.

Commissioner Strauss observed that while he was comfortable with a deadline of 24 hours in advance, his concern was that he did not want to receive any materials at the last minute immediately before a meeting, particularly for a significant item. For this reason, he recommended that the Commissioners be provided with sufficient time to review the exhibits or presentations before they are asked to vote upon items. He was agreeable to amending the Resolution to provide for a minimum of 24 hours in advance of Town meetings.

Commissioner Strauss made a motion, seconded by Commissioner Pouloupoulos, to amend Resolution 2022-17 to allow for provision of materials 24 hours in advance of Town meetings. Motion carried 5-0.

Town Attorney Trevarthen clarified that this meant the Item was amended to the 24-hour time frame.

Commissioner Strauss made a motion, seconded by Commissioner Pouloupoulos, to proceed with approval of this Item rather than waiving the vote until the next meeting. Motion carried 5-0.

The Commission took a brief recess at this time.

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

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 the Items. Individuals wishing to speak on the Items were sworn in at this time.

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a. Case Number 2022-L2-AA-01: Carol Ficks (applicant) – Level 2 Administrative Adjustment Request to Section 30-211 (c)(2) to encroach into a required side setback.

Development Services Director Campbell stated that this request is for an administrative adjustment to construct a small addition and covered patio at the subject address. The existing structure is a single-family home. As the house was constructed before existing regulations were enacted, side setback is 7 ft. where the required setback is 7.5 ft. The request to build the addition and patio within this setback requires a Level II adjustment. If the request is approved, the setbacks will match on both sides of the property.

Staff has reviewed the Application. The adjustment would not increase density and the building's height will remain within Code standards. The structure will fall within the 30% or 7.5 ft. setback requirement and would not extend to either the existing utility easement or the Town's right-of-way. The adjustment would not interfere with any adjacent land, pose danger to public health or safety, or result in any incompatible uses, and is not incompatible to the character or development of the surrounding area. Granting the adjustment would not result in any adverse impacts, and the request is consistent with the Town's Comprehensive Plan.

Staff presented this Item to the Planning and Zoning Board at their April 27, 2022 meeting. That Board voted unanimously (5-0) to recommend approval of the Application. Staff also recommends approval.

At this time Mayor Vincent opened public comment, which he closed upon receiving non input.

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

b. 2021-L2-SPM-02 Site Plan Modification 4229 N Ocean Drive (Horizon by the Sea)

Development Services Director Campbell stated that this request is for a Site Plan modification. She explained that when a property owner applies for a building permit, business tax receipt, or vacation rental license, Town Staff typically checks to ensure the existing number and configuration of units match what is permitted in the original Site Plan. If these do not match, it can present a density issue. Previous issues of this

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nature include non-permitted renovations or plumbing or electrical work that leads to life safety issues.

The subject property was originally permitted to have 13 units. Over time, its number of units was increased to 25. The property is 20,277 sq. ft. in size. Code Section 30-241 requires that each unit consist of 1742 sq. ft. of lot area if the unit contains a kitchen or 871 sq. ft. if not. In order to keep the 25 currently existing units, 21,774 sq. ft. would be required. Because this space is not available, two of the units must be removed. The owner proposes a configuration of 23 hotel rooms without kitchens.

Another consideration is the parking requirement. Hotel units require one space per room. At present, 20 regular spaces and one ADA-accessible space are provided. Credit for two parking spaces is being granted, as the owner plans to provide two bicycles and bicycle racks. The Fire Marshal has reviewed the Application and stated that a metal sheet will need to be installed in each of the two doors currently separating the rooms in order to meet fire separation requirements.

Staff has put together the standard development order recommendations, with the addition of a recommendation stating that the Applicant shall not rent more than the legally permitted 13 units in the configuration shown in the attached plans until work on the property is completed. A Certificate of Occupancy (CO) has been received for 23 units, and business tax receipts (BTRs) have been obtained.

The Planning and Zoning Board reviewed the Application at their April 27, 2022 meeting and recommended approval of the Site Plan modification. A citizen participation meeting was also held, with details provided in the backup materials.

Commissioner Strauss expressed concern that only two individuals attended the citizen participation meeting, pointing out that the Commission has worked to improve this requirement and communicate with residents. Development Services Director Campbell noted that mailed notice was sent to all residents within a 300 ft. radius of the property. Notice was also posted on the property. There was, however, a Staff error that resulted in notice not being posted on the Town's website. She confirmed that this error has been addressed and notice will be posted on the website going forward.

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

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Maria Poprawski, Applicant, stated that she and her husband purchased the property in 2015 with 25 units. She provided documentation from the hotel licensing division of Florida's Department of Business Regulation (DBR), which shows the business was upgraded to 25 units in 2002.

Ms. Poprawski continued that she and her husband later wished to sell the property. When a buyer proposed to purchase the business, he learned that the City's density permits only 12 units plus one hotel room for a total of 13 units. The lot's square footage permits only 23 units.

Krzysztof Poprawski, Applicant, added that the Applicants have paid the appropriate taxes for 25 units on the property, as did its previous owners.

At this time Mayor Vincent opened public comment.

Barbara Cole, resident, stated that she had attended the Planning and Zoning Board meeting at which this Application was presented, where it was mentioned that the Town had been aware of the unit discrepancy since 2015. She felt the Commission should consider the Applicants' situation to be a hardship.

With no other individuals wishing to speak on the Item, Mayor Vincent closed public comment.

Development Services Director Campbell reiterated that the lot area of the subject property does not permit the Applicant to retain all 25 units. The maximum number of units that may be constructed on the lot is 23.

Town Manager Connors explained that in the past, when a property owner requested a BTR, they were asked how many units are on the property. The Town has instituted a process by which Staff refers to the property file to confirm the number of units. Through this procedure, as well as through more thorough Fire Marshal inspections and application review, they have uncovered issues such as this one, in which a property may have been altered so it does not meet safety, zoning, and land use regulations. She recalled that previous such applications have come before the Commission in previous years.

Mayor Vincent also recalled previous applications of this nature coming before the Commission to make required changes, and recommended improved vigilance by the Town to ensure public safety.

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Commissioner Strauss made a motion, seconded by Commissioner Pouloupoulos, to adopt what Town Staff and the Planning and Zoning Board have recommended. Motion carried 5-0.

13. NEW BUSINESS

a. 2022 4th of July Celebration

Special Events and Marketing Manager Debbie Hime noted that the annual 4th of July celebration is a joint effort between the Town and the Volunteer Fire Department (VFD). The 2022 event will include a parade, Family Fun Day, and fireworks display, among other attractions. Staff will send out a letter soliciting donors and sponsors for the event.

Special Events and Marketing Manager Hime advised that there are three items for consideration within the Agenda memo:

- \$3500 payment to the VFD for their services in coordinating the parade and Family Fun Day
- Use of four spaces across the street from the El Mar Café, Village Grille, and Village Pump for turnarounds if road closures are necessary
- Use of the inside lanes of El Mar Drive for public parking immediately following the parade

The Town will close off portions of both lanes of the roadway during the fireworks display.

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

b. Appoint a 75th Anniversary Committee Commission liaison and direct staff to explore the creation of an advisory committee for the 75th anniversary events

Vice Mayor Oldaker explained that the Town will celebrate its 75th anniversary in 2024. The Commission is asked to appoint a liaison to work with Staff to develop an advance plan leading up to this anniversary. The committee will be subject to the Sunshine Law.

It was determined by consensus that Vice Mayor Malkoon would serve as liaison.

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c. Pump Replacement – Sea Grape Lift Station (Ken Rubach, Deputy Town Manager / Public Works Director)

Deputy Town Manager/Public Works Director Rubach recalled that in 2021, there was an issue with one of the pumps at the Sea Grape lift station, which needed to be rebuilt. The cost of a rebuild was approximately \$18,000, while the cost of a new pump was roughly \$34,000. A backup pump, however, cannot be repaired and must be replaced.

Vice Mayor Malkoon recalled that the replacement of the backup pump was included in a sewer study, and asked if there are any plans to review rates and other information pertaining to the Sewer Fund. Deputy Town Manager/Public Works Director Rubach replied that these rates are reviewed annually. They will be determined later in the year.

Vice Mayor Malkoon asked if there is a list of future projects identified in the sewer report. Deputy Town Manager/Public Works Director Rubach stated that pumps will need to be replaced and/or rebuilt approximately every decade. Pompano Beach staff is also satisfied with the condition of the lift station, which requires no major upgrades.

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

14. COMMISSIONER COMMENTS

Commissioner Strauss reported that the Town recently participated in the United Way Mayors' Gala and provided a donation. He added that the Hillsboro Inlet district is still considering dredging the inlet, and noted that the Town's inlets are safe and well-dredged.

Commissioner Oldaker commented that he spoke with the Broward County Property Appraiser earlier in the week to correct a line item on Town residents' tax bills that erroneously referred to the Town as a city. This has been corrected.

Commissioner Oldaker continued that the Property Appraiser also offered to visit the Town to discuss 2021-2022 property values. He requested that Town Manager Connors reach out to this individual and invite him to attend a future meeting.

15. ORDINANCES 1ST READING

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a. Ordinance 2022-02 – AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 30 “UNIFIED LAND DEVELOPMENT REGULATIONS” ARTICLE 1, “IN GENERAL,” SECTION 30-11 “DEFINITIONS” AND ARTICLE V “ZONING,” SECTION 30-311 “BOATS, BOAT LIFTS, BOAT HOUSES, MOORING, AND DOCKING.”

At this time Mayor Vincent opened public comment.

Debbie Nagy, resident, advised that her property is adjacent to the Blue Moon restaurant. She noted that proposed Ordinance 2022-02 is the result of a variance discussion for that restaurant’s property, which occurred in February 2022. She objected to the proposed 10 ft. setback and requested a 25 ft. setback for commercial properties that abut residential development. She asserted that this is consistent with Florida Department of Environmental Protection (DEP) regulations as well as with the Ordinances of other municipalities.

Ms. Nagy continued that she had attended a Planning and Zoning Board meeting to provide Florida Statutes regarding dock waiver criteria for the Intracoastal Waterway. That Board voted 5-0 in favor of a 25 ft. setback requirement in consideration of the effect that commercial development can have on residential homes. Staff instead proposes a 10 ft. setback.

Ms. Nagy stated that there may be some understanding regarding the definition of the term “marginal dock.” A dock that is greater than 10 ft. in width is defined as non-marginal and has increased setbacks. This does not, however, apply to residential or single-family docks. She concluded that if the Blue Moon property stands to gain approximately 2200 ft. of square footage. She felt a 25 ft. setback is a minimal request considering the business’s increase in dock size, and concluded that this greater setback would minimize the impacts of noise and the circulation of boat traffic, as well as protecting the privacy of neighboring properties.

Ms. Nagy provided two brief videos of the subject area to the Commission.

Ralf Brookes, attorney, addressed the 25 ft. setback proposed by Ms. Nagy, reiterating that the Planning and Zoning Board recommended this greater distance. He noted that in other coastal municipalities, marginal docks may have 10 ft. setbacks, while areas used by multiple boats as docking facilities are required to provide a 25 ft. setback. This distinction also applies to the submerged lands owned by the state of Florida.

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Mr. Brookes continued that the Blue Moon's dock is roughly 300 ft. in length, and if a 25 ft. setback is required, they would retain 275 ft. He added that it is possible for a municipality to have more restrictive requirements than the state, and recommended that the Commission adopt the Planning and Zoning Board's recommendation.

Nectaria Chakas, attorney representing 4403 Tradewinds Avenue, stated that her client prefers the proposed 10 ft. setback to the 25 ft. setback recommended by the Planning and Zoning Board, as they felt the greater distance was excessive. She pointed out that the building on her clients' property has a setback of zero. She also noted that DEP and other permitting agencies have reviewed the proposed dock and were willing to approve it with a 5 ft. setback.

Barbara Cole, resident, commented that the Planning and Zoning Board had considered the potential for future development when determining that a 25 ft. setback would be preferable. She noted that this Ordinance would apply only to a limited number of residents.

Mr. Nagy, speaking via Zoom, characterized DEP's definitions of marginal docks in 2019 as a landmark change. If the Ordinance is passed in its current form, most of the Town's docks would be considered non-marginal. He stated that the default setback distance for docks is 25 ft., with exceptions for properties less than 65 ft. wide as well as properties that abut residential development.

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

Commissioner Pouloupoulos asked how long the Nagys have lived at their residence. Ms. Nagy replied that they have been at that address for seven to eight years, during all of which they have been adjacent to the proposed dock.

Mayor Vincent requested clarification of references to a DEP regulation mandating a 25 ft. dock, and why this regulation would not apply to other coastal Broward municipalities. Ms. Chakas reiterated that the property owners she represents have already received their permits and the proposed dock has been reviewed by the appropriate regulatory agencies, including Broward County and the U.S. Army Corps of Engineers.

Town Attorney Trevarthen explained that Mr. Brookes had referred to a 25 ft. setback as part of a state standard that applies to properties owned by the state. He had also

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pointed out that the Town may adopt similar or stricter regulations. This standard is not binding to the Town.

Ms. Nagy reviewed an Ordinance from the City of Lighthouse Point which states that no dock may be wider than 6 ft. on a canal that is less than 100 ft. in width, or wider than 8 ft. on a canal 100 ft. wide or greater. The setbacks for marginal docks are 10 ft. She cited a number of examples of municipalities that require greater setbacks for commercial and non-marginal docks.

Ms. Nagy continued that Florida Statute 821003 defines a marginal dock as “a dock placed adjacent to and parallel with no more than 10 ft. waterward from the shoreline or seawall bulkhead or revetment.” She noted that structures such as mooring piles and breakwaters must be set back a minimum of 25 ft. inside an applicant’s riparian line in the case of a non-marginal dock, while marginal docks must be set back a minimum of 10 ft.

Commissioner Pouloupoulos asked if the adjacent residential property also has a setback requirement. Development Services Director Campbell confirmed that the residential setback is 5 ft. If a 25 ft. setback is adopted, it would only apply to commercial development that abuts residential.

Commissioner Strauss clarified that the setback issue under discussion affects only those properties located along the Intracoastal Waterway and would not apply to the marina. He also addressed the exhibits provided in the Commissioners’ Agenda packets, noting that other coastal municipalities have setback requirements that range between zero and 15 ft.

Development Services Director Campbell advised that Staff had reached out to the property owner adjacent to Benihana, who may also be affected by the proposed Ordinance in the future. That property owner had not taken issue with Staff’s recommendation of 10 ft.

Commissioner Strauss requested clarification of the Florida Statutes cited by Ms. Nagy. Town Attorney Trevarthen replied that the state of Florida has spoken for itself by approving the proposed dock.

Commissioner Pouloupoulos observed that he has walked the dock at the subject property, and noted that both the state and the Army Corps of Engineers have approved the proposed dock. He felt a 10 ft. setback requirement constitutes a compromise, as

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the Town could have proposed an Ordinance requiring a 5 ft. setback or less. He concluded that a property owner should not be forced to give up the use of their property when the state has already approved that use.

Commissioner Strauss referred to a portion of the Ordinance that addresses boat lifts, noting that boats have grown significantly in size over the last several years and the lifts on which they are placed must be enlarged accordingly. He expressed concern that the Ordinance's language limits the size of boat lifts that may be installed. He recommended that prior to second reading of the Ordinance, Staff clarify that this size is measured from the water edge of the dock rather than from the recorded property line.

Commissioner Strauss also suggested that Staff reach out to local marine businesses, such as the Chappell Group, to hear an opinion on the general width of docks. He concluded that he was also supportive of property rights and would have approved the original recommendation of a 5 ft. setback for commercial development abutting residential development on the Intracoastal Waterway.

Mayor Vincent asked if Commissioner Strauss's suggestion regarding distance from the seawall is within the Town's purview or is governed by the state. Town Attorney Trevarthen replied that Staff will follow up on this issue and ensure that appropriate language is used.

Development Services Director Campbell recalled that at the March 22, 2022 Commission meeting, the Commission directed Staff to review Town Code requirements for marine structures and compare them with the requirements of other jurisdictions. Staff reviewed this entire section, including definitions, and proposes several revisions to the Code, which included definition of the terms dock, finger pier, boat lift, and dolphin.

Development Services Director Campbell continued that Staff also reviewed the location and width of the Town's canals. There are six small canals within Town limits, ranging in width from 80 ft. to 100 ft. The Intracoastal Waterway is approximately 300 ft. wide.

Town Code currently regulates docks in two ways:

- Maximum distance a dock may extend into the waterway
- Proximity of a dock to the property line

She reiterated that docks are located on waterways which have a range of widths. The maximum allowable distance is 8 ft. into a 100 ft. waterway. This is similar to the Codes

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of many neighboring jurisdictions. Minimum setbacks in those municipalities range from 5 ft. to 10 ft.

Staff proposes to eliminate the column addressing waterways 50 ft. or less in width. In order to have most existing docks conform to regulations, the Town proposes to modify the second column addressing canal width from 50 ft. and under to 100 ft. and under. A new category is established for canals over 100 ft. wide, such as the Intracoastal Waterway, which proposes that docks be constructed no more than 15 ft. away from the property line and maintain 5 ft. side building setbacks.

Code currently regulates finger piers in four ways:

- Maximum distance they may be built into the waterway
- Width
- Proximity of finger piers to each other
- Proximity of finger piers to a property line

Only a few other municipalities regulate finger piers, as most cities control the distance between these structures through the use of side setbacks rather than a uniform distance. Other cities regulate distance by percentage of the waterway. Staff proposes the prohibition of finger piers in the Town's smaller waterways as well as on the Intracoastal Waterway, except in the marina mooring area or other areas approved through conditional use.

Staff proposes to modify the column of canal width regulations from 50 ft. and under to 100 ft. and under, as done throughout the Ordinance. This would keep most boat lifts in conformity with Town regulations. They also propose establishing a new canal category for width over 100 ft., which would apply to the Intracoastal Waterway. This new category would retain the same percentage or maximum distance as smaller waterways.

The Town currently regulates dolphins or other mooring devices in three ways:

- Maximum distance they may be constructed into a waterway
- Proximity of piles to one another
- Proximity of piles to a property line

Only a few cities regulate these structures. Staff proposes modifying the column from more than 50 ft. to less than or equal to 100 ft. This would allow most dolphins to conform to regulations. Staff proposes a new column, which would establish a new canal width category for waterways over 100 ft.

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The proposed Ordinance was presented to the Planning and Zoning Board at their April 27, 2022 meeting. That Board voted to recommend approval of the Ordinance with the inclusion of a 25 ft. setback for marine structures located on commercial properties that abut residential development. Staff considered these suggestions and conducted additional research into other commercial dock regulations throughout South Florida. This research is included in the Commissioners' backup materials. Staff recommends that this setback for commercial properties abutting residential properties be 10 ft. They recommend approval of Ordinance 2022-02 on first reading.

Vice Mayor Malkoon made a motion to approve.

Commissioner Strauss requested that Staff revisit the boat lift issue he had identified earlier. He also expressed concern that the Ordinance would eliminate finger piers, pointing out that there are existing properties with these structures and new properties that may wish to construct them but do not currently have them in place. He asked how the Ordinance would affect these properties, and requested that Staff further explore the issue of finger piers.

Vice Mayor Malkoon accepted Commissioner Strauss's concerns as an **amendment** to his **motion**.

Town Manager Connors recalled that at a previous meeting, there had been discussion of extending dock length on the Intracoastal Waterway. There was also consensus from the Commission to remove finger piers from Code, with existing structures to be grandfathered. This had prompted the elimination of finger piers from Code. She requested additional direction from the Commission on this issue.

Commissioner Strauss stated that he did not wish to prohibit these structures, as he felt the Town could hurt itself in the long run by doing so. He suggested that properties along the Intracoastal Waterway be separated from other properties for purposes of this discussion. Town Manager Connors confirmed that Staff will bring back additional research.

Town Attorney Trevarthen pointed out that the current **motion** is to approve the Ordinance as drafted, including the Town's canals. She advised that separating the Ordinance to treat the Intracoastal Waterway differently would require the Vice Mayor's approval as an amendment.

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Commissioner Strauss recommended the following **amendment** to Vice Mayor Malkoon's **motion**: take out everything east of the Intracoastal and remove the reference to boat lifts for further study. Vice Mayor Malkoon agreed to this **amendment**.

Town Attorney Trevarthen reread the **motion** as follows: **motion** to amend the Ordinance to only proceed with the changes as they affect the Intracoastal Waterway, and take the other changes and separate them out for further research and reporting back, and whatever the standard should be for boat lifts on the Intracoastal, and be sure to address finger piers on the Intracoastal.

The motion was duly seconded. Motion carried 5-0.

Town Attorney Trevarthen advised that the updated procedure for extension of a meeting states that meetings may only go past 11 p.m. with the approval of four of the five Commissioners. A specific additional time must be stated for this extension.

Vice Mayor Malkoon made a motion, duly seconded, to extend the meeting to 11:15 p.m. Motion carried 5-0.

b. ORDINANCE 2022-03 – AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 30 “UNIFIED LAND DEVELOPMENT REGULATIONS,” ARTICLE V “ZONING,” SECTION 30-241 (e) “INTRA LOT PLACEMENT” TO REMOVE MINIMUM SEPARATION REQUIREMENTS FOR GROUPED STRUCTURES AND BUILDINGS.

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

Development Services Director Campbell stated that this Ordinance proposes to remove building separation language in the RM-25 zoning district. At present, this separation is being implemented through both Zoning and Building Codes for safety purposes.

The RM-25 district requires buildings on the same lot to be separated by 20 ft.; however, these regulations may conflict with Florida Building Code, and it is important to ensure there is one clear standard. Florida Building Code provides flexibility in the placement of a building on a site. The Ordinance would also eliminate several instances of buildings that do not adhere to Town Code.

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Florida Building Code regulates building placement on a site through a concept called fire separation distance, which refers to a spatial relationship between a building and its site boundaries as well as between buildings on the same site. Flexibility of Code occurs in the relationship between the buildings, occupancy, construction type, and location on the site. Fire separation is measured from lot lines, center lines of streets and public ways, and an imaginary line between two buildings.

Development Services Director Campbell noted that the discrepancy between Town Code and Florida Building Code would require a variance application. By eliminating the zoning requirement, the Town hopes to avoid inconveniences and delays. She reviewed the tables that may be used by building designers, along with the building's construction type and occupancy, to place buildings closer to the lot line. A combination of various factors could also be used to reduce construction costs by avoiding the use of more costly materials for an increased fire rating.

The proposed Ordinance would also clear up issues related to properties that currently do not follow the 20 ft. separation requirement between buildings. Staff reviewed the Broward County Property Appraiser's aerial photographs and determined that roughly 53 properties have two or more buildings on one lot. Of these, approximately 34 appear to be closer than 20 ft. in proximity.

The Ordinance was presented to the Planning and Zoning Board at its April 27, 2022 meeting, where it was recommended for approval.

Commissioner Strauss asked if the 34 nonconforming properties will be identified as such so any subsequent owners would be aware of this status. Development Services Director Campbell replied that Staff does not have an established means by which to document nonconforming status.

Town Manager Connors pointed out that the properties in question are legally nonconforming, as they were constructed prior to determination of nonconformity. She did not believe it would be possible for the Town to document all nonconformities, which are ultimately the responsibility of the purchaser. If a legally nonconforming property is modified, there may be a requirement to make it conform based on the percentage of the property to be affected by the modification.

Commissioner Strauss asked how a prospective purchaser would find out whether or not their property is legally nonconforming. Town Manager Connors replied that this

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information is in property files. She emphasized the importance of conducting this research with the Town rather than relying on information from the Property Appraiser's Office. Prospective owners may ask the Town to review the property file so their professionals can determine whether legal nonconformity exists.

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

16. ORDINANCES 2ND READING

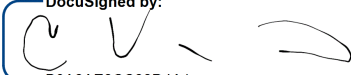
None.

17. RESOLUTIONS – PUBLIC COMMENTS

None.

19. ADJOURNMENT

With no other business to come before the Commission at this time, the meeting was adjourned at 10:45 p.m.

DocuSigned by:

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Mayor Chris Vincent

ATTEST:

DocuSigned by:

DCE1FD743A4A498...

Town Clerk

6/23/2022

Date

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME <i>Pontopoulos Theophilos George</i>		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>Lauderdale-by-the-Sea Commission</i>	
MAILING ADDRESS <i>1400 S. Ocean Blvd., #403</i>		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:	
CITY <i>Lauderdale-by-the-Sea</i>	COUNTY <i>Broward</i>	☒ CITY ☐ COUNTY ☐ OTHER LOCAL AGENCY	
DATE ON WHICH VOTE OCCURRED <i>05/10/2022</i>		NAME OF POLITICAL SUBDIVISION: <i>Lauderdale-by-the-Sea</i>	
		MY POSITION IS: ☒ ELECTIVE ☐ APPOINTIVE	

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office MUST ABSTAIN from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also MUST ABSTAIN from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; and

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Theophilos Poulgatos, hereby disclose that on May 10, 2022, 20 22 :

(a) A measure came or will come before my agency which (check one or more)

- ☐ inured to my special private gain or loss;
- ☐ inured to the special gain or loss of my business associate, _____;
- ☒ inured to the special gain or loss of my relative, Spino Marchelos _____;
- ☐ inured to the special gain or loss of _____, by whom I am retained; or
- ☐ inured to the special gain or loss of _____, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

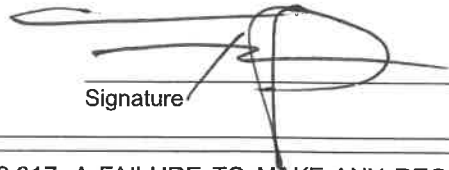
There came forth a discussion and vote on whether to extend the waiver of code requirements as set forth for various businesses in town under Resolution No. 2021-59. One of the businesses effected by this vote was Mulligan's Restaurant. While my father-in-law Spino Marchelos is not the owner of Mulligan's Restaurant, he is the landlord. Due to the nature of the resolution, it could be inferred that a direct conflict would exist due to my relationship with Spino Marchelos. This was discussed and opined on by the town attorney. I abstained from voting as to the renewal of the license waiver as it pertained to Mulligan's Restaurant.

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

Date Filed

May 16th, 2022

Signature



NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.