

**TOWN OF LAUDERDALE-BY-THE-SEA  
TOWN COMMISSION  
REGULAR MEETING MINUTES  
Jarvis Hall  
4505 Ocean Drive  
Tuesday, May 8, 2018  
6:30 PM**

**1. CALL TO ORDER, MAYOR CHRIS VINCENT**

Mayor Chris Vincent called the meeting to order at 6:31 p.m. Also present were Vice Mayor Elliot Sokolow, Commissioner Edmund Malkoon, Commissioner Alfred "Buz" Oldaker, Commissioner Randy Strauss, Town Manager Bud Bentley, Assistant Town Manager Sharon Ragoonan, Development Services Director Linda Connors, Town Attorney Susan L. Trevarthen, Special Projects Coordinator Debbie Hime, Public Information Officer Steve d'Oliveira, and Town Clerk Tedra Allen.

**2. PLEDGE OF ALLEGIANCE TO THE FLAG**

**3. INVOCATION**

Rabbi Bentzion Singer gave the Invocation.

**4. ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS**

None.

**5. PRESENTATIONS**

**a. Proclamation for "National Police Week" and "National Peace Officers Memorial Day" (Captain Thomas Palmer)**

Captain Thomas Palmer of the Broward Sheriff's Office (BSO) stated that May 15 of each year is designated National Peace Officers Memorial Day, and the week in which this date falls is National Police Week, which in 2018 is May 13-19. Mayor Vincent read a Proclamation in recognition of these dates.

**6. PUBLIC COMMENTS**

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

## **7. PUBLIC SAFETY DISCUSSION**

### **a. VFD April 2018 Report (Chief Judson Hopping)**

Commissioner Oldaker reported that the 4<sup>th</sup> of July Committee has held a number of meetings and everything is proceeding according to schedule.

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

## **8. TOWN MANAGER REPORT**

### **a. Town Manager Report (Bud Bentley, Town Manager)**

Town Manager Bud Bentley stated that the Farmers' Market has concluded for the season, and the last installment of Danny's Dance Moves at the Pavilion is scheduled for May 13, 2018.

A public input meeting regarding the Pelican Hopper is scheduled for Wednesday, May 9, 2018. It will be recorded and replayed on the Town's television channel as well as the website.

Mayor Vincent requested an update on the Commercial Boulevard landscaping project. Town Manager Bentley replied that the plan is to add plants of the same type to certain areas. If the plants do not respond well, the entire bed will be removed and a different variety will be planted.

Commissioner Oldaker recalled that at the April 24, 2018 meeting, a contract for the Town's website was approved as part of the Consent Agenda. He requested an update regarding the website. Special Projects Coordinator Debbie Hime reported that Staff will meet this week with the new company, Civic Plus, which oversees several local websites. New branding photos and video footage will be taken, and all documents will be standardized.

Commissioner Malkoon asked when neighborhood grant applications will come before the Commission for approval. Town Manager Bentley stated that these are scheduled for presentation at the next Commission meeting.

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Commissioner Malkoon also addressed concerns regarding the seawall in the Bel Air community. Development Services Director Linda Connors explained that Staff has received two bids for the seawall project, with prices ranging from \$250 to \$5000.

#### **9. TOWN ATTORNEY REPORT**

None.

#### **10. APPROVAL OF MINUTES**

- a. April 10, 2018 Special Town Commission Meeting Minutes (Tedra Allen, Town Clerk)**

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

- b. April 10, 2018 Town Commission Meeting Minutes (Tedra Allen, Town Clerk)**

Commissioner Oldaker requested that Commissioner Comments from the April 10, 2018 meeting reflect his comments on a storm that affected the Town earlier in the day. It was determined that approval of the April 10, 2018 regular meeting minutes would be deferred until a later date.

#### **11. CONSENT AGENDA**

- a. September Commission Meeting Schedule (Tedra Allen, Town Clerk)**

Vice Mayor Sokolow requested clarification that the meeting dates of September 11 and September 24, 2018 will be changed to September 12 and September 25, 2018. This would schedule the regular Commission meetings directly after the public budget hearings.

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

- b. Request to Extend the Mitigation on Code Lien for 4112 El Mar Drive (Linda Connors, Development Services Director)**

Commissioner Oldaker requested additional information on this Item, including the Town Manager's ability to provide one limited extension to Code liens. Town Manager Bentley explained that this would occur if there is not sufficient time for an item to return to the Commission for action. He pointed out that the Commission will meet on July 10, 2018, and advised that if the property is closed upon before or immediately after that date, an extension would address that limited time frame and allow for closing without calling a special Commission meeting.

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

## **12. OLD BUSINESS**

### **a. Commission Direction regarding RFP for Stormwater Rate Study (Tony Bryan, Deputy Town Manager)**

Town Manager Bentley stated that at the April 24, 2018 workshop, the Commission requested that Staff provide information regarding the action necessary to update the Town's stormwater study and provide the Commission with information to make a decision on the establishment of a stormwater utility. Deputy Town Manager Tony Bryan received information that a study could be conducted within 90 days for roughly \$50,000. He requested direction from the Commission on this Item.

Mayor Vincent agreed that more information would be necessary for the Commission to determine the best way to fund stormwater utility. Vice Mayor Sokolow clarified that the proposed study would update a study conducted roughly 10 years ago, and would identify how much residents would be charged if a utility is established. Town Manager Bentley added that the study would include a basic analysis of stormwater projects as well as the allocation of these expenses.

Mayor Vincent commented that before a rate is determined, the study would need to identify potential problem areas and the value and time frame of their repair or replacement. Town Manager Bentley confirmed this, comparing the process to a sewer rate study, which accompanies a 10- to 15-year work plan.

Commissioner Oldaker observed that a portion of the study's approximate cost would come from the fiscal year (FY) 2017-2018 budget. Town Manager Bentley confirmed that the majority of the funding would come from the General Fund's Professional Services line item.

Commissioner Strauss asked if the company that conducted the original 2010 study, on which the updated information would be based, is still viable. Town Manager Bentley advised that the company responsible for the 2010 study is no longer in existence. The updated study would review all aspects of the 2010 report to ensure accuracy.

The Commissioners agreed by consensus to issue a request for proposal (RFP) for the stormwater rate study.

### **13. NEW BUSINESS**

#### **a. Application for Relief of Code Enforcement Lien at 4244 Seagrape Drive (Linda Connors, Development Services Director)**

Development Services Director Connors stated that the subject property is a multifamily property which was cited for trash cart and landscape maintenance as well as trash and litter. Driveway and parking area maintenance were subsequently cited as well. The total lien due to noncompliance is \$10,400. The property has since come into compliance and receipts for \$14,309 were submitted after the violations were addressed. The property owner is requesting a lien reduction of 95%, and has offered to pay \$500 in settlement.

Raymond Masucci, Applicant, stated that the violation hearing was scheduled in August 2017. He was unable to fully address all violations by October 2017 due to Hurricane Irma. He has submitted an affidavit reflecting the amount paid to reconcile the violation, which included significant work to the parking lot.

Mayor Vincent noted that the first notice of noncompliance for trash carts, landscaping, and driveway issues was issued in May 2017, although work did not begin on the driveway until August. Mr. Masucci did not recall that the driveway violation was issued as early as May.

Commissioner Oldaker commented that notice was given regarding trash carts in March 2017; upon return to inspect trash carts in May, notice was also given regarding the driveway. He asked if the driveway deteriorated during the two-month period. Development Services Director Connors advised that two different Code Enforcement Officers may have reviewed the property on these two occasions.

Commissioner Oldaker observed that Code Enforcement notice is sent to the address listed by the Broward County Property Appraiser's Office, which in this case was to the subject property. Development Services Director Connors pointed out that this misunderstanding may have been due to a typo. Commissioner Oldaker concluded that there was a lengthy time frame over which the violations were cited and addressed. Development Services Director Connors advised that the permits for both structural and landscaping improvements were submitted and denied more than once. She confirmed that it is typical practice to review parking area violations to ensure that they can be brought into compliance, including landscaping requirements, without losing any required parking spaces.

**Vice Mayor Sokolow made a motion, seconded by Commissioner Strauss, to approve and accept the \$500 settlement offer. Motion passed 5-0.**

**b. Application for Relief of Code Enforcement Lien at 1965 South Ocean Boulevard #203 (Linda Connors, Development Services Director)**

Development Services Director Connors stated that the subject property was cited for replacement of an air conditioning unit without a permit in May 2017. While this is permitted in emergency situations, Code requires that a permit must be applied for shortly thereafter. The permit in this case was not pulled until July 2017. The Special Magistrate issued notice to complete all work and inspections by August 8; however, no final inspection was made, which meant fines continued to accrue for 126 days. This led to a total fine of \$12,600. The property owner requests 100% mitigation of the fine, as the permit fee in this case was twice the standard amount.

Mayor Vincent asked how the complaint on this property was submitted. Development Services Director Connors replied that it was received from an anonymous source. When access was obtained to the property, Code Enforcement confirmed that the air conditioning unit was installed without a permit and provided a notice of violation.

Salvatore Russo, Applicant, explained that the apartment was purchased as is; however, there were issues with the air conditioning unit which led to its shutdown. A contractor was hired to install a new unit. The Applicant did not realize that having pulled the permit was insufficient permission to complete the work. Although mail was sent to the property, the apartment is not in use year-round. Mr. Russo requested that mail be sent to his address, but did not receive it. He concluded that the property came into compliance within 30 days.

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Commissioner Oldaker asked if the Applicant had relied on the contractor to procure a permit for the work. Mr. Russo stated that the previous tenants did not pull a permit for the old unit. He added that the replacement unit was permitted and received a final inspection, although the final inspection was late. Development Services Director Connors noted that the property was purchased in December and Staff received the complaint of work without a permit the following May.

Mr. Russo asserted that the old air conditioning unit had not been properly installed, resulting in a leak. He stated that the old unit, not the new one, was the item for which he was cited. A permit was issued for the new unit. He added that because a violation was associated with the prior unit, the permit for the new unit was expected to be closed out right away rather than after the usual six months.

Commissioner Oldaker observed that the information in front of the Commission and the information provided by Mr. Russo were contrary, and suggested the issue be postponed and returned to Staff so it may be clarified further.

Vice Mayor Sokolow commented that he did not feel Code could cite the Applicant for unpermitted work on a unit that had been installed years ago. He also noted that it can also be common for individuals to try to replace or install units without the required permit. He concluded that he was no longer certain whether the citation was issued for improper repair or unpermitted replacement. Development Services Director Connors replied that she could ensure the Senior Code Inspector is present at the next Commission meeting to help clarify the issue.

Vice Mayor Sokolow asked if the contractor had secured a permit after they replaced the original unit. Mr. Russo replied that the new unit was installed on July 13. Vice Mayor Sokolow pointed out that this meant the permit was not secured on a timely basis. Development Services Director Connors advised that the complaint was received in May, followed by an issued notice of violation for work without a permit two days later. The case was set for July 27.

Vice Mayor Sokolow explained that the issue is the type of work that was performed without a permit: if it was a repair, no permit was required. Mayor Vincent added that the backup materials state compliance was not reached until August 24. Development Services Director Connors replied that the Applicant was issued an after-the-fact permit; however, the Special Magistrate requires that the permit be issued, work completed, and all valid inspections performed. Although a building permit allows a six-month

period for inspection, the Special Magistrate required that the work must be completely finished in order to stop the violation.

Mayor Vincent asked how compliance could not be reached on a properly issued new permit for a new air conditioning unit. Development Services Director Connors reiterated that the Special Magistrate required all work and inspections to be complete by August 8. Fines accrued beginning on August 24 because there had been no final inspection. The lien was recorded and compliance achieved in December, when the final inspection was made.

Vice Mayor Sokolow reiterated that he would like to know the violation for which the first citation was issued. Mr. Russo stated that he had reached out to Code Enforcement, but was unable to make contact. Development Services Director Connors stated again that the permit was issued on July 13, but Code Enforcement was not aware of the date on which the new unit was installed. Mr. Russo noted that the contractor was paid in full for his work on June 30, before the unit was installed.

Vice Mayor Sokolow advised that he would like to defer the item, pending additional information to clarify the issue, including the original reason for citation. He noted that it is the contractor's responsibility, not the owner's, to call for the final inspection, although the owner may reach out to Staff to ensure that an inspection is scheduled.

**Vice Mayor Sokolow made a motion, seconded by Commissioner Oldaker, to defer until the next meeting [May 22, 2018]. Motion carried 5-0.**

Town Manager Bentley observed that Staff does not prepare for an evidential hearing in cases of Code violations: the evidential hearing occurs when a property owner receives a notice violation and goes before the Special Magistrate. All evidence is presented to the Special Magistrate, and the property owner or his/her representative may speak at that time regarding any evidence to be entered into the record.

When the hearing is concluded, the Special Magistrate issues a final written order, which is provided to the property owner. In this case, the owner was required to get a permit and have a final inspection by August 24. When the contractor failed to complete this requirement, he may not have been aware that the process was under a time limit imposed by the Special Magistrate. Town Manager Bentley concluded that the Item would be brought back with additional evidence and witnesses.

Mayor Vincent asked if the Special Magistrate was allowed to impose a shorter time frame because it was assumed the permit was issued after the fact, although the permit should have been a regular permit for replacement of the unit. Town Manager Bentley stated that the Special Magistrate was likely to have understood the testimony provided at the hearing before making this decision. Mr. Russo asserted that the Special Magistrate did not provide him, or his father, with legal notice, and that Code Enforcement had not provided him with copies of the documentation.

It was clarified that if Mr. Russo was unable to attend the May 22, 2018 meeting, the Item would be deferred to the first Commission meeting in June to accommodate him.

**c. Solid Waste Disposal and Recycling Services Contract Expiration  
(Sharon Ragoonan, Assistant Town Manager)**

Assistant Town Manager Sharon Ragoonan provided a status report on the solid waste disposal and recycling services contract, which is a five-year agreement between the Town and the contractor, set to expire on July 2, 2018. The contractor is a joint venture between two entities that are currently in litigation. For this reason, the Town is uncertain that it may exercise the contract's renewal option.

Another concern is that the recycling service component of the agreement may be problematic, as the market for recyclables is currently uncertain and depressed. Staff is exploring the Town's options regarding a new agreement. Staff would also like to know if the Commission wishes to continue with the practice of appointing a Commissioner or Commissioners as liaisons to the solid waste recycling program.

Town Manager Bentley explained that this Item is intended to provide the Commission with notice that the current contractor may not allow the existing contract to be extended. If there is no extension, there are other options open to the Town which may result in savings.

Mayor Vincent asked if the current contractor would honor the contract on a month-to-month basis after the expiration of the contract until a solution has been identified. Town Manager Bentley replied that Staff cannot answer that question at this time.

Commissioner Strauss asked if the current agreement requires notice of non-renewal. Town Manager Bentley responded that Staff would answer this question via email the following day. Town Attorney Susan Trevarthen advised that the contractor has informed other municipalities that they would not agree to extend the contract.

The Commission agreed by consensus to appoint Commissioner Strauss as liaison for this issue.

#### **14. COMMISSIONER COMMENTS**

Commissioner Oldaker advised that he recently attended an ethics training session with other regional elected officials, many of whom offered positive comments about their visits to Lauderdale-By-The-Sea.

Mayor Vincent agreed that other Broward County municipalities recognize how well the Town manages itself and represents its constituents, and cited Town Attorney Trevarthen's role in maintaining the Town's positive image.

#### **15. ORDINANCES**

##### **a. Ordinances 1<sup>st</sup> Reading**

- i. Ordinance 2018-23 – AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 30, UNIFIED LAND DEVELOPMENT REGULATIONS, OF THE CODE OF ORDINANCES, TO DELETE CERTAIN PERMITTED, CONDITIONAL USE AND ACCESSORY USES AND RELATED CRITERIA FOR THE ANNEXED AREAS, LYING GENERALLY NORTH OF PINE AVENUE; DELETING PREVIOUSLY APPLICABLE LAND DEVELOPMENT REGULATIONS FROM THE FORMER BROWARD COUNTY CODE CHAPTER 39 WHICH HAVE BEEN INCORPORATED INTO CHAPTER 30, UNIFIED LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE (Linda Connors, Development Services Director)**

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

Development Services Director Connors explained that this is the final stage of incorporating the Town's annexed areas into its zoning Code. The Town has previously adopted applicable regulations from the Broward County Zoning Code into an

Ordinance. Any uses that were not applicable to the Town were incorporated as conditional uses out of an abundance of caution.

The previous Planning and Zoning Board reviewed these uses and made recommendations to Staff, which drafted an Ordinance based on consideration of these regulations. Any differences of opinion between Staff and this Board were highlighted in the Commissioners' backup materials. The current Planning and Zoning Board has reviewed the Ordinance drafted based on the previous Board's discussion, and recommended approval of Staff's recommendation.

Vice Mayor Sokolow asked for additional information regarding specific references to RM-15 and RM-25 districts. Development Services Director Connors replied that RM-15 is a small zoning district that fronts onto Ocean Drive and provides parking for a multi-family structure. Similar conditions exist with regard to RM-25 north of Pine Avenue.

**Vice Mayor Sokolow made a motion, seconded by Commissioner Oldaker, to adopt on first reading. Motion carried 5-0.**

**b. Ordinances 2<sup>nd</sup> Reading**

None.

**16. RESOLUTIONS – PUBLIC COMMENTS**

- a. Resolution 2018-19 – A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, SUPPORTING THE VACATION OF A UTILITY EASEMENT LOCATED ALONG THE REAR OF LOT 1 AND A PORTION OF LOT 7 ON BLOCK 5 OF THE SILVER SHORES SECTION OF LAUDERDALE-BY-THE-SEA, UNIT A, PLAT (PLAT BOOK 29 PAGE 39); PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE (Linda Connors, Development Services Director)**

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

Development Services Director Connors stated that this is a platted utility easement on the Silver Shores plat dating back to the 1950s. When a site plan for the property was approved in 2005, there was no requirement to vacate the easement, and buildings

were constructed atop the easement. The developer has now asked that the easement be vacated where it lies beneath the building.

The Town's process requires that this request go before the Planning and Zoning Board, which recommended approval. The proposed Resolution will not remove the utility easement. The request must go to the County, which has a lengthy application process for vacation of an easement. One requirement of the County process is a recommendation of approval from the municipality. Another requirement is consent from the utilities using the easement, which have provided letters to this effect.

Mayor Vincent requested clarification that there is no future use planned for the easement which could come back to the Town. Development Services Director Connors confirmed this. Town Attorney Trevarthen added that it is not known how the structure was permitted to be constructed over the easement.

**Commissioner Malkoon made a motion, seconded by Vice Mayor Sokolow, to adopt. Motion carried 5-0.**

#### **17. QUASI JUDICIAL PUBLIC HEARINGS**

None.

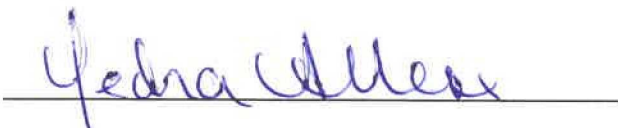
#### **18. ADJOURNMENT**

With no further business to come before the Commission at this time, the meeting was adjourned at 8:13 p.m.



Mayor Chris Vincent

ATTEST:



Town Clerk Tedra Allen



Date