

APPROVED
TOWN OF LAUDERDALE-BY-THE SEA
PLANNING AND ZONING BOARD
MEETING MINUTES
Jarvis Hall - 4505 Ocean Drive
Wednesday, April 19, 2017

1. CALL TO ORDER

Chair John Lanata called the meeting to order at 6:00P.M. Members present were Charles Clark, David Chanon, Roseann Minnet, John Lanata, John Graziano, and 1st Alternate Cari McCormack. The absent member was 2nd Alternate Paul LaCoursiere. Also present were Assistant Town Attorney Kathryn Mehaffey, Development Services Director Linda Connors, and Clerk Jhanelle Campbell.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was recited.

3. APPROVAL OF MINUTES

a. Planning and Zoning Board Meeting Minutes – March 1, 2017

Mr. Clark made a motion to approve the minutes of March 1, 2017. The motion was seconded by Mr. Graziano. The motion carried 5-0.

4. PUBLIC COMMENTS

The Chair turned the meeting over to Development Services Director Linda Connors. She said that there were plans to do both the amendment to Section 30-271 B Conditional Use Requirements as they relate to the Marina and Silver Shores Yacht Basin Site Plan Review (226 and 230 Basin Drive) and notices were sent to all neighbors within 300 feet. The Silver Shores Yacht Basin Site Plan Review has been postponed until the May 17, 2017 P&Z Board Meeting. However, Ms. Connors invited people in the audience who came to comment or express whatever they desire on that item to still do so tonight during public comment. She expressed again that the Silver Shores agenda item will not be heard tonight but rather at the May P&Z Meeting. She reminded those present that the Planning and Zoning Board is a recommending body. It makes a recommendation but the final determination and decision are given by the Town Commission. The meeting date for site plan review by the Town Commission Meeting is yet to be determined. Ms. Mehaffey answered a member of the public that they can speak on the site plan because it was advertised for tonight.

Ed Ellis said that he has a number of concerns. One concern is that about a year ago, the Town Commission allowed the marina to make certain changes as long as the end result was that the Marina met Florida's Clean Marina Standards. He also voiced that he is outside the 300 feet radius from the marina for notice and that he has not seen the site plan. He felt that anyone on that canal is impacted by anything that goes on at that marina. He felt that the neighborhood really was not notified. He said that he also spoke with the Town Manager last year that the people on the canal, including Mr. Ellis, would be notified and they were not. He had a problem with the location of the Town's signs. Mr. Ellis thought he heard today that one of the things to be considered sometime in the future is to allow the Town Manager to make a

unilateral change in the conditional use at that marina. He spoke about his concerns about raw sewage going in and out of that canal, renting boats on a regular basis, and the marina's lack of paying fines to the Town. He did not want the Town to do anything for the marina.

5. NEW BUSINESS

- a. Amendment to Section 30-271 B Conditional Use Requirements – Marina Use (Linda Connors, Development Services Director)

Development Services Director Linda Connors said she would speak about the proposed amendments to Section 30-271 in the B-1 Business District Regulations. She started by speaking about the background on this agenda item. On May 24, 2016, the Town Commission adopted an ordinance that established a marina use in the Town as a conditional use in the B1 zoning district. One of the conditions of approval listed in the code was that the marina should be certified as a Florida Clean Marina by the Florida Department of Environmental Protection within nine months after the approval date. She said that the proposed ordinance deletes the mandatory requirement to become certified as a Florida Clean Marina and instead requires that the marina follow the Florida Clean Marina Program's Best Management Practices that are applicable as standard practices for facility operations. The revisions further require that should the marina become eligible at any time for certification as a Florida Clean Marina, the proposed ordinance would require certification within nine months of eligibility.

She said that staff is presenting this amendment because the marina owners found in their research that Clean Marina is only applicable to full-service marinas. Since this marina will not be staffed on a full-time basis, and the community was not interested in having a full-service marina at this location, it will not be possible for the marina owners to meet many of the requirements of the Florida Clean Marina program. Staff recommends approval of the draft ordinance and will forward the final ordinance to the Town Commission for first reading at their May 9th Commission Meeting.

Ms. Connors directed the board's attention to page 3, line 47 of the proposed ordinance. She read the proposed language on lines 47 through 55 into the record. She said it was also listed in the Conditions of Approvals. She asked for any questions.

Mr. Graziano wanted to know if there have been any complaints about the marina and Ms. Connors answered that there have been several. He said he heard an interesting one about sewage. He is an advocate of the pump-out station but that is not in the proposal. Ms. Connors felt that when the site plan and conditional use application is presented at next month's meeting, that would be the best time to talk about this subject. Mr. Chanon asked if we are ensuring that the marina implements the best practices. He questioned how the Town can confirm they are adhering and wanted to know how the Town could monitor it. Ms. Connors said that there are certain standards that would be outlined as part of the conditional use application. The Code Officer would have to check that the required items have been implemented and continue to be adhered to. On a regular basis, there would have to be a spot survey or surprise review.

Mr. Chanon wanted to know how the conditional use could be revoked. Ms. Connors said that the Town Commission could show criteria for revocation and revoke it. Among other things, Ms. Connors outlined that if conditions are not met or if the conditions for the conditional use are not met, the Town Commission could make a finding to revoke the Conditional Use. Mr. Chanon also asked if the property owners owe any money to which Ms. Connors answered that in fines, the property owners owe about \$380,000 relating to the maintenance of the piers, the marina,

and work without permit. They are in compliance, as of this date, with the maintenance of the piers. The Special Magistrate ordered them to be removed. The work without permit has been complied with as well.

Mr. Clark wanted to know about the monitoring of the conditional uses. He asked if there would be a schedule or just surprise reviews. Ms. Connors said that it has been done both ways. For one of our conditional uses, we review on a monthly basis. For other conditional uses, we do not monitor unless we receive a complaint or spot monitoring on a minimal basis. The marina would probably have a higher level of review than some of our other conditional uses and there would be input from the community.

Mr. Graziano felt that the board should address Mr. Ellis' concerns. Ms. Connors said that Mr. Ellis' concerns are related to the site plan and conditional use application. Tonight is only to amend the code – the conditional use requirements as it relates to the marina. We are not discussing whether the conditional use should be approved and what conditions should be placed in the conditional use. Mr. Graziano said that we are moving this forward on the advice of staff and counsel. Chairman Lanata said that tonight is for the ordinance, so that it could be rewritten. Ms. Connors explained that because the marina is a limited facility, they can only get a certain amount of points from the point system to become certified as a Florida Clean Marina by the Florida Department of Environmental Protection. She explained that is why the language was deleted.

Mr. Chanon spoke about sustainability and implementation. Ms. Minnet agreed with Mr. Chanon. She did not like that the marina owners seemed to be dictating. She understood about full-service marinas and Florida Clean Marina. Ms. Minnet wanted to see stronger language and stricter rules so the Town Commission would decide which rules the owners have to adhere to and implementation which is very important. She wanted to know if the owners are picking the ones that they feel are standard practices or would the Town Commission do that.

Ms. Minnet said a lot of people are affected by this waterway. She asked Ms. Connors or Ms. Mahaffey to explain what dictates that notice is only given to those within a 300 foot radius even though this is a waterway that affects people who are further away than 300 feet. Ms. Connors apologized to those residents on the waterway who did not get notice as promised. She explained about the Town working on this many years ago and how an e-mail list was compiled and lost. She was able to e-mail late this afternoon and apologized again to those residents who were promised notification and did not get what was promised. From today forward, they would receive notice via e-mail and letter if they give the Town their physical address. She explained that it is in the code to give notice to property owners within 300 feet. She also said that the first public speaker, Mr. Ellis, spoke about the location of the Town's signs. She assured that the Town would do a better job placing the signs so that it would be seen by the community. She reiterated that they are required by code to notice those owners within 300 feet but the rest of the people on the waterway would also be noticed. She said that if you are outside the 300 feet notification area, please leave your address and it would be added to the 300-foot Notification List giving you not only an e-mail but also a letter by mail.

She explained that the marina would be in front of the Planning and Zoning Board on May 17, 2017 to discuss the site plan and conditional use. They are still working on the most appropriate date to bring this to the Town Commission. Ms. Minnet asked for clarification about the Town Manager being able to revoke the conditional use, not just the Town Commission. Ms. Connors did not have her book with her but thought that the ordinance said that revocation

was by the Town Commission if there is a repeat violation, it there are dangers to health, safety and welfare, and if there is a violation of the conditions. If requested, she could e-mail the board the exact language. Ms. Minnet repeated that she is okay with the change but there has to be stronger language on what practices they are to follow and the implementation of what happens if they do not follow the rules. Ms. Connors said that specific conditions would be outlined and especially those conditions that the Town Manager spoke to the community about. If those are violated, then the Town Commission could revoke the conditional use. The Chair spoke about their switching from a zoning bylaw to a conditional use so that we could bypass the Special Magistrate process and give the decision to the Town Commission. When the board reviews the conditional use application, we have to ensure that we have everything covered and make sure it is long lasting, sustainable, and enforced. Ms. Connors said that she and Ms. Mehaffey are almost finished drafting the report and having it reviewed. The report will be available before the standard Friday before the Planning and Zoning Board Meeting giving significant time to look the material over.

Ms. McCormack was thinking about the wording for the ordinance on page 3. Ms. Connors read into the record the wording that Ms. Mehaffey drafted this evening:

The marina will implement and adhere to the Florida Clean Marina Program's Best Management Practices that are applicable as standard practices for facility operations and shall within _____ (timeframe) submit a Clean Marina Best Practices Implementation Plan for approval and monitoring by the Town Manager or his designee.

Ms. McCormack wanted to know who determines what Best Management Practices apply to the marina or not. Ms. Connors said that she could forward the 148 page document so the board could see what the Florida Clean Marina Program entails. You can see why some are applicable and some are not because of the size of the marina and how it is meant to be operated. For example, they do not sell fuel at the marina. There are also a number of Florida Clean Marina Regulations based on the way the fuel is pumped and stored, etc. would not be applicable to the Town's marina because they do not sell fuel. She explained that the Town is not letting them "off the hook" by maintaining their business but we have to take out those that are obviously not related to the marina's operation. Ms. Connor said that the Town called the State. The State agreed that the Town's marina could not amass the points needed for designation because of how it operates. The Town just wants to ensure that the marina moves forward with the ones they can and then would have to meet them. Ms. McCormack wanted to know if there are some regulations in the "gray" area, who would decide. Mr. Chanon felt that the marina could decide about that because the list is quite lengthy, but the Town Commission does not have to agree with them. He feels that there is protection for the Town.

The Chair called for public comment. Mr. Ellis said that the board should recommend that in the slip area there should be sewage pump-out. He further stated that the marina should have a bathroom to avoid people relieving themselves in the water. It also seems that the marina owners would be "cherry picking" what they want and that really should be up to the board. Hannah Hempstead said that it is not a marina but rather a mooring or a tie-up. The only people who will benefit from this are the owners of the marina which is in a residential neighborhood. She expressed concern about people spending the night on the boats and loud music in the early morning. The marina has no facilities. Ms. Hempstead reported that there is someone there trying to do Groupons and renting out boats. Ms. Connors said that even though this would be heard at the next P&Z Meeting, the Town has heard what you said this evening and would propose to include concerns in the conditional use application. She

explained that the marina has been cited for boat rentals. She explained the code enforcement process which usually starts with a courtesy notice and then they go to a violation. This went directly to a violation. The other issues brought up this evening are noise and that the property is not being used properly. The Town was proposing a conditional use that the boat would be parked stern in and there would be strict noise regulations, etc. What was spoken today would be in the minutes and the staff agenda so that the Town Commission would know your concerns. Ms. Connors answered Ms. Minnet that there is a Special Magistrate Hearing in May regarding the boat rental. She will check to see if the marina is on the agenda for the Special Magistrate Hearing in April 2017. She will send out an e-mail to all the e-mail addresses that she has to let the public know if the marina owners are on the agenda for the Special Magistrate Hearing in April. Ms. Minnet highly recommended attending the Special Magistrate Hearing because the magistrate takes what you say into consideration. If you can't attend, Ms. Minnet suggested writing a letter to the magistrate and giving it to Ms. Connors for the hearing.

Ms. Connors brought the Town's website onto the screen demonstrating how to see different board agendas and documentation. She also provided her department's phone number. They would be glad to let you know when a property in Town has been cited or going before the Special Magistrate. Chair Lanata asked Ms. Connors how to stop the rental of boats because they have no right to do that at the marina. She said that the way to stop a violation of the Town's Code of Ordinances is through the Special Magistrate process.

Ms. Connors explained that they are proposing an agent, similar to what they have for vacation rentals, as a conditional use. An agent would have to be designated and have to be able to get to the property within three hours to identify and address the Town's concerns. This would ensure that the ownership would be responsive to the community's needs and the violations that have occurred in the past. Mr. Graziano asked Ms. Connors if she could tell the board the difference between a lot of the good things we have been talking about which are applicable to the site plan rather than what we are asking for today. Ms. Connors said that what we are asking for today is just an amendment to the ordinance that says instead of having to be a Florida Clean Marina, you have to meet the practices of the Florida Clean Marina as related to the marina's use. The next meeting is for the site plan and the conditional use. As no one else wished to speak, the public hearing portion of the meeting was closed by Chair Lanata.

Mr. Chanon said that in his opinion, the point of tonight's hearing is to set forth the standards by which the application would adhere. The applicant decides what is applicable and the Town Commission could disagree. He agrees with the language drafted by the Town Attorney (and read into the record by Ms. Connors). Ms. Minnet asked to hear the amended language again. Ms. Mehaffey read the amended ordinance language into the record for page 3, line 63, subsection c 3.

Mr. Chanon made a motion to approve the language as amended by Town Attorney Kathy Mehaffey. The motion was seconded by Mr. Clark. The motion carried 5-0.

- b. Silver Shores Yacht Basin Site Plan Review – 226 and 230 Basin Drive
(Linda Connors, Development Services Director)

Postponed until the May 17, 2017 P&Z Board Meeting.

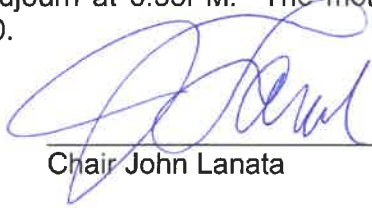
6. OLD BUSINESS

7. UPDATES/BOARD MEMBER COMMENTS

The Chair feels that it is deplorable that the marina owners ran up a \$380,000 fine. It is very frustrating that they are renting boats, etc. We have to take a good hard look at the conditional use and make sure that all our concerns are met and recommendations are reasonable and fairness to everyone. Ms. Minnet reminded everyone that they are a recommending body. She asked the citizens to contact their Commissioner and/or Mayor and let them know what is happening and what needs to be done. Ms. Campbell asked anyone from the public who wanted to leave their name/address/e-mail information, to see her after the meeting.

8. ADJOURNMENT

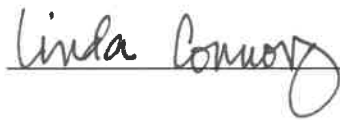
Ms. Minnet made a motion to adjourn at 6:55PM. The motion was seconded by Mr. Graziano. The motion carried 5-0.

 2-10-18
Chair John Lanata

ATTEST:

Date Accepted: 4/19/17

Development Services Director Linda Connors

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