



LAUDERDALE • BY • THE • SEA

Agenda Memorandum

Development Services Department

Linda Connors *lc*

Town Planner *ws*

COMMISSION MEETING DATE - 7:00 PM	Deadline to Town Clerk
September 24, 2012	

- Presentation Reports Consent Ordinance
 Resolution Quasi-Judicial Old Business New Business

FY2012 DESIGNATED HIGH PRIORITY ITEM - PRIORITY TOPIC

SUBJECT TITLE: Interlocal Agreement with Broward County for Central Permitting for Photovoltaic Systems and First Reading of Ordinance 2012-16, which Amends Chapter 30's Photovoltaic Solar System Regulations.

EXPLANATION: Broward County received a grant from the Department of Energy to establish a one-stop, electronically approved, transparent and efficient permitting process for photovoltaic vendors. The Town sent a letter in support of the grant application.

Broward County is asking that those municipalities wishing to participate in the program approve an interlocal agreement that provides them the authority to electronically review the photovoltaic permit applications (**Exhibit 1**). In addition, they are requesting that we amend our Land Development Code to allow for the specific review process as outlined in the grant.

The proposed Ordinance 2012-16 (**Exhibit 2**) is presented in response to the County's request and provides language that:

1. Removes barriers to the installation of alternate energy systems;
2. Encourages the installation of rooftop photovoltaic solar system;
3. Considers photovoltaic solar systems as permitted accessory equipment; and
4. Ensures that the rooftop photovoltaic solar system is not greater than five (5) feet above the roof and never higher than limits established in the Town Charter.

The Planning and Zoning Board reviewed Ordinance 2012-16 at their September 19, 2012 meeting and recommended approval of the Ordinance with a recommendation for the Town Planner to review the possibility of adding screening requirements by a vote of 5 to 0 (**Exhibit 3**).



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RECOMMENDATION: Staff recommends approval of the Interlocal Agreement (**Exhibit 1**) and Ordinance 2012-16 on First Reading (**Exhibit 2**).

- EXHIBIT:**
- Exhibit 1 – Interlocal Agreement
 - Exhibit 2 – Ordinance 2012-16
 - Exhibit 3 – Planning and Zoning Board 9/19/12 Action Agenda

Ordinance Prepared by Town Attorney

Yes No

Town Manager Initials CA

Return recorded document to:
Jeffery Halsey, Director
Pollution Prevention, Remediation and
Air Quality Division
1 North University Drive
Plantation, FL 33324

Document prepared by:
Maite Azcoitia, Deputy County Attorney
Broward County Attorney's Office
Governmental Center, Room 423
115 South Andrews Avenue
Fort Lauderdale, FL 33301

**INTERLOCAL AGREEMENT FOR Go SOLAR
BUILDING PERMIT-RELATED SERVICES TO BE PERFORMED BY THE BROWARD
COUNTY PERMITTING, LICENSING AND CONSUMER PROTECTION DIVISION OF
THE
ENVIRONMENTAL PROTECTION AND GROWTH MANAGEMENT DEPARTMENT**

This is an Interlocal Agreement, made and entered into by and between:
BROWARD COUNTY, a political subdivision of the State of Florida, hereinafter referred
to as "COUNTY,"

AND

Town of Lauderdale-By-The-Sea, a municipal corporation existing under the laws
of the state of Florida, hereinafter referred to as "TOWN."

WHEREAS, this Agreement is entered into pursuant to Section 163.01, Florida
Statutes, as amended, also known as the "Florida Interlocal Cooperation Act of 1969";
and

WHEREAS, the COUNTY and TOWN have agreed to work together under a U.S.
Department of Energy ("DOE") Rooftop Solar Challenge Agreement Number DE-
EE0005701 ("Go SOLAR- Broward Rooftop Solar Challenge"); and

WHEREAS, Go SOLAR is part of a DOE initiative, which strives to make solar
energy cost-competitive with other forms of energy by the end of the decade; and

WHEREAS, the goal of reducing the installation costs of solar energy systems is
to contribute toward the widespread, large-scale adoption of this renewable energy
technology and restore the U.S. leadership in the global clean energy race; and

WHEREAS, DOE's Rooftop Solar Challenge serves as an incentive for
twenty-two (22) regional awardees to make it easier for Americans to implement solar
energy systems; and

WHEREAS, by streamlining permitting processes, making available best
management practices for zoning codes, connecting solar power to the electric grid, and

increasing access to financing, COUNTY, TOWN, and other municipalities who are participating in Go SOLAR will clear a path for rapid expansion of solar energy and serve as models for other communities in the state of Florida and across the nation; and

WHEREAS, one primary goal of Go SOLAR is to create a web based permitting solution for rooftop photovoltaic (PV) installations, whereby applicants can apply online for a permit to install a PV system and immediately be issued a permit application, complete with pre-approved design plans in compliance with all TOWN Codes, the TOWN Plan and TOWN Charter; and

WHEREAS, COUNTY maintains an Environmental Protection and Growth Management Department which includes a Permitting, Licensing, and Consumer Protection Division ("PLCPD") that conducts building plan review, permit inspections, code enforcement, and other building permit-related services; and

WHEREAS, COUNTY has agreed to accept the online applications, an agreed upon permit fee, and disseminate the application and permit fee to the applicable municipality; and

WHEREAS, TOWN agrees, at no additional cost to TOWN, to transfer to COUNTY the authority to receive applications for rooftop PV installations within municipal boundaries, to issue permits for those rooftop PV installations that utilize pre-approved design plans in compliance with all TOWN Codes, the TOWN Plan and the TOWN Charter under the TOWN permit brand, and distribute to TOWN an agreed upon fee for those rooftop PV installations within TOWN municipal limits for which COUNTY issues permits; and

WHEREAS, the COUNTY, through PLCPD, is willing to perform such services pursuant to the terms and conditions hereafter set forth; NOW, THEREFORE,

IN CONSIDERATION of the mutual terms, conditions, promises, covenants, and payments hereinafter set forth, COUNTY and TOWN agree as follows:

ARTICLE 1 - SCOPE OF SERVICES

1.1 Permits. TOWN agrees to transfer to COUNTY, and COUNTY agrees to accept, the authority to receive web based applications for rooftop PV installations that utilize the Go SOLAR permitting process and issue permits for said installations in compliance with all TOWN Codes, the TOWN Plan and the TOWN Charter. Applicants for permits submitting a web based application shall provide COUNTY with Five Hundred Fifty-two and 00/100 Dollars (\$552.00) via credit card payment. This fee consists of the following:

\$500.00	Basic Permit Fee
\$24.00	Board of Rules and Appeals Surcharge
\$ 7.50	Section 553.721, Florida Statutes, Surcharge

\$ 7.50 Section 468.631, Florida Statutes, Surcharge
\$13.00 Credit Card Convenience Fee

1.2 Inspections and re-inspections. TOWN retains the authority to conduct inspections and re-inspections of rooftop PV installations which were permitted under the Go SOLAR permitting process. Re-inspections of installations for which permits were issued pursuant the Go SOLAR permitting process shall be scheduled through the web based permitting system. Permit applicants shall provide County with Fifty-two and 00/100 Dollars (\$52.00) per re-inspection via credit card payment. This fee consists of the following:

\$50.00 Re-inspection Fee
\$2.00 Credit Card Convenience Fee

1.3 Fee Collection and Distribution: Beginning no later than the 15th of the second month after the web based permitting system is active, and no later than the 15th of each month thereafter during the term of this Agreement, COUNTY shall distribute the amount of Five Hundred Thirty-nine and 00/100 Dollars (\$539.00) to TOWN for each permit issued for a rooftop PV installation within municipal boundaries during the preceding month and Fifty and 00/100 Dollars (\$50.00) for each re-inspection of a rooftop PV installation scheduled during the preceding month, together with documentation indicating the number of permits issued or re-inspections scheduled in the preceding month for rooftop PV installations, the addresses for which the permits were issued and/or re-inspections scheduled, and the permit number for each rooftop PV installation permit issued or re-inspection scheduled within municipal limits. If no permits were issued or re-inspections scheduled for rooftop PV installations during the preceding month, COUNTY shall provide TOWN with documentation indicating same. The \$539.00 per permit and \$50.00 per re-inspection provided to TOWN consists of the following:

\$500.00 Basic Permit Fee
\$24.00 Board of Rules and Appeals Surcharge
\$ 7.50 Section 553.721, Florida Statutes, Surcharge
\$ 7.50 Section 468.631, Florida Statutes, Surcharge

\$50.00 Re-inspection Fee

1.4 Zoning. TOWN agrees to modify and/or amend its zoning regulations so that web based applications for rooftop PV installations that utilize the Go SOLAR permitting process shall be consistent with the TOWN zoning regulations and shall not be subject to zoning review, inspection(s), or additional fees, subject to compliance with the TOWN Charter's height limitations.

1.5 COUNTY shall perform the above Services through its PLCPD, or any successor division as may be designated by the County Administrator.

ARTICLE 2 - FUNCTIONS AND DUTIES NOT TRANSFERRED TO THE COUNTY

It is specifically understood and agreed that all rights and powers unrelated to the issuance of permits for the installation of rooftop PV systems as may be vested in the TOWN pursuant to Chapter 166, Florida Statutes, as amended, or any other law or ordinance or Charter provision not specifically addressed by this Agreement, shall be retained by the TOWN/CITY.

ARTICLE 3 - TERM OF AGREEMENT

3.1 This Agreement shall be deemed to have commenced upon execution by the COUNTY and shall continue in full force and effect until February 14, 2020.

3.2 This Agreement shall remain in full force and effect through the termination date unless written notice of termination by the COUNTY or the TOWN is provided pursuant to Article 7, NOTICES.

ARTICLE 4 - GOVERNMENTAL IMMUNITY

TOWN is a municipal corporation existing under the laws of the State of Florida and COUNTY is a political subdivision of the State of Florida. Each agrees to be fully responsible for acts and omissions of its agents or employees to the extent permitted by law. Nothing herein is intended to serve as a waiver of sovereign immunity by any party to which sovereign immunity may be applicable. Nothing herein shall be construed as consent by a state agency or political subdivision of the state of Florida to be sued by third parties in any matter arising out of this Agreement or any other contract.

ARTICLE 5 - INSURANCE

The COUNTY is self insured in accordance with provisions set forth within Section 768.28, Florida Statutes, as amended.

ARTICLE 6 - TERMINATION

This Agreement may be terminated by either party upon ninety (90) days written notice to the other party of such termination pursuant to Section 7, NOTICES, herein.

ARTICLE 7 - NOTICES

Any and all notices given or required under this Agreement shall be in writing and may be delivered in person or by United States mail, postage prepaid, first class and certified, return receipt requested, addressed as follows:

TO THE COUNTY:

Director, Broward County Permitting,

Licensing and Consumer Protection Division
1 North University Drive, Bldg. B, #302
Plantation, Florida 33324

With copy to:

County Administrator
115 South Andrews Avenue, Suite 409
Fort Lauderdale, Florida 33301

TO TOWN:

Town Manager
4501 Ocean Drive
Lauderdale-By-The-Sea, FL 33308

With copy to:

Town Attorney
4501 Ocean Drive
Lauderdale-By-The-Sea, FL 33308

ARTICLE 8 - MISCELLANEOUS PROVISIONS

8.1 **ASSIGNMENT:** COUNTY shall perform the selected services provided for in this Agreement exclusively and solely for the TOWN which is a party to this Agreement. Neither party shall have the right to assign this Agreement.

8.2 **AMENDMENTS:** Except for the provisions set forth in Section 3.1, no modifications, amendments, or alterations in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

8.3 **COMPLIANCE WITH LAWS:** COUNTY shall comply with all federal, state, local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations related to this Agreement.

8.4 **WAIVER:** The waiver by either party of any failure on the part of the other party to perform in accordance with any of the terms or conditions of this Agreement shall not be construed as a waiver of any future or continuing similar or dissimilar failure.

8.5 **SEVERABILITY:** The invalidity of any provision of this Agreement shall in no way affect the validity of any other provision.

8.6 **ENTIRE AGREEMENT:** It is understood and agreed that this Agreement incorporates and includes all prior negotiations, agreements or understandings

applicable to the matters contained herein and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

8.7 INDEPENDENT CONTRACTOR: The COUNTY is an independent contractor under this Agreement. Services provided by the COUNTY pursuant to this Agreement shall be subject to the supervision of the COUNTY. In providing such Services, neither the COUNTY nor its agents shall act as officers, employees, or agents of the TOWN. This Agreement shall not constitute or make the parties a partnership or joint venture.

8.8 CHOICE OF LAW; WAIVER OF JURY TRIAL: Any controversies or legal problems arising out of this transaction and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the state courts of the Seventeenth Judicial Circuit of Broward County, Florida, the venue situs, and shall be governed by the laws of the state of Florida. To encourage prompt and equitable resolution of any litigation that may arise hereunder, each party hereby waives any rights it may have to a trial by jury of any such litigation.

8.9 DRAFTING: This Agreement has been negotiated and drafted by all parties hereto and shall not be more strictly construed against any party because of such party's preparation of this Agreement.

8.10 INCORPORATION BY REFERENCE: The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties.

8.11 RECORDING: This Agreement shall be recorded in the Public Records of Broward County, in accordance with the Florida Interlocal Cooperation Act of 1969.

8.12 MULTIPLE ORIGINALS: Multiple copies of this Agreement may be fully executed by all parties, each of which shall be deemed to be an original.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have made and executed this Interlocal Agreement between the COUNTY and the TOWN for services to be performed by the Broward County Permitting, Licensing and Consumer Protection Division of the Environmental Protection and Growth Management Department on the respective dates under each signature: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice Mayor, authorized to execute same by Board action on the ____ day of _____, 20____, TOWN, signing by and through its duly authorized representatives.

COUNTY

ATTEST:

BROWARD COUNTY, by and through its Board of County Commissioners

County Administrator and Ex-Officio
Clerk of the Board of County
Commissioners of Broward
County, Florida

By _____, Mayor

Approved as to form by
Office of County Attorney
Joni Armstrong Coffey, County Attorney
for Broward County, Florida
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-6968

By _____

Deputy/Assistant County Attorney

Interlocal Agreement for Building Permit-Related Services to be Performed by the Broward County Permitting, Licensing and Consumer Protection Division of the Environmental Protection and Growth Management Department

TOWN

Attest:

By _____
Constance Hoffman, TOWN Manager

____ day of _____, 20____

June White, CMC, TOWN Clerk

APPROVED AS TO FORM:

Susan L. Trevarthen, TOWN Attorney

ORDINANCE 2012-16

AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING ARTICLE V “ZONING” OF CHAPTER 30, UNIFIED LAND DEVELOPMENT REGULATIONS, OF THE CODE OF ORDINANCES, BY AMENDING SECTION 30-313 “GENERAL PROVISIONS” TO CREATE A NEW SUBSECTION ENTITLED “ROOFTOP PHOTOVOLTAIC SOLAR SYSTEMS,” PROVIDING FOR ROOFTOP PHOTOVOLTAIC SOLAR SYSTEMS AS PERMITTED ACCESSORY EQUIPMENT; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AND AN EFFECTIVE DATE

WHEREAS, the US Department of Energy is offering grants to foster the removal of barriers to using photovoltaic energy in residential and commercial structures; and

WHEREAS, Broward County, in partnership with Florida Power & Light, Broward municipalities and photovoltaic vendors is applying for these federal grants to create a pilot program offering a one-stop, electronically approved, transparent and efficient permitting process for all of Broward County; and

WHEREAS, on August 23, 2011, the Town Commission approved the Town’s participation in a partnership with Broward County, the “SunShot Initiative: Rooftop Solar Challenge Program” (“SunShot”); and

WHEREAS, the Town Commission desires to encourage and support the use of photovoltaic energy; and

WHEREAS, Section 30-531 of the Code requires issuance of a Notice of Intent prior to the processing of any amendment to the land development regulations in Chapter 30 of the Code, and such notice was given of this amendment on August 21, 2012; and

54 pursuant to the U.S. Department of Energy Rooftop Solar Challenge Agreement Number
55 DE-EE0005701 (“Go SOLAR- Broward Rooftop Solar Challenge”) on buildings and
56 structures within the Town. The provisions and exceptions contained herein are limited
57 to web based applications for pre-approved rooftop photovoltaic solar system
58 installations that utilize the Go SOLAR-Broward Rooftop Solar Challenge permitting
59 process.

60 (b) *Definitions.* For purposes of this section, the following terms shall have the meaning
61 prescribed herein:

62 (1) *Roof Line:* The top edge of the roof which forms the top line of the
63 building silhouette or, for flat roofs with or without a parapet, the top of
64 the roof.

65 (2) *Rooftop photovoltaic solar system:* A system which uses one (1) or more
66 photovoltaic panels installed on the surface of a roof, parallel to a sloped
67 roof or surface- or rack-mounted on a flat roof, to convert sunlight into
68 electricity on rooftops.

69 (c) *Permitted accessory equipment.* Rooftop photovoltaic solar systems shall be deemed
70 permitted accessory equipment to residential and commercial conforming and
71 nonconforming buildings and structures in all zoning categories. Nothing contained in
72 this chapter, including design standards or guidelines included or referenced herein, shall
73 be deemed to prohibit the installation of rooftop photovoltaic solar systems as accessory
74 equipment to conforming and nonconforming buildings, including buildings containing
75 nonconforming uses.

76 (d) Height. In order to be deemed permitted accessory equipment, the height of rooftop
77 photovoltaic solar systems shall not exceed the Roof Line, as defined herein. For flat
78 roofs with or without a parapet, in order to be deemed accessory equipment, the rooftop
79 photovoltaic solar system shall not be greater than five (5) feet above the roof, subject to
80 the height limits of the Town Charter.

81 (e) Permits. Prior to the issuance of a permit, the property owner(s) must acknowledge, as
82 part of the permit application, that: (a) if the property is located in a homeowners'
83 association, condominium association, or otherwise subject to restrictive covenants, the
84 property may be subject to additional regulations despite the issuance of a permit by the
85 Town; and (b) the issuing of said permit for a rooftop photovoltaic solar system does not
86 create in the property owner(s), its, his, her, or their successors and assigns in title, or
87 create in the property itself a right to remain free of shadows and/or obstructions to solar
88 energy caused by development adjoining on other property or the growth of any trees or
89 vegetation on such property or the right to prohibit the development on or growth of any
90 trees or vegetation on such property.

91 (f) Tree Maintenance and removal. To the extent that the Town has discretion regarding the
92 removal or relocation of trees, solar access shall be a factor taken into consideration when
93 determining whether trees can be removed or relocated.

94 (g) Maintenance. The rooftop photovoltaic solar system shall be properly maintained and be
95 kept free from hazards, including but not limited to, faulty wiring, loose fastenings, being
96 in an unsafe condition or detrimental to public health, safety, or general welfare.

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98 **SECTION 3. Severability.** If any section, sentence, clause or phrase of this Ordinance is
99 held to be invalid or unconditional by any court of competent jurisdiction, then said holding shall in
100 no way affect the validity of the remaining portions of this Ordinance.

101 **SECTION 4. Conflicts.** All ordinances or parts of Ordinances and all Resolutions or
102 parts of Resolutions in conflict with the provisions of this Ordinance are hereby repealed.

103 **SECTION 5. Codification.** This Ordinance shall be codified.

104 **SECTION 6. Effective Date.** This Ordinance shall become effective immediately upon
105 adoption on second reading.

106 **SECTION 7. Adoption.** Passed on the first reading, this __ day of _____, 2012.

107 Passed and adopted on the second reading, this __ day of _____, 2012.

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Mayor Roseann Minnet

	First Reading	Second Reading
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Mayor Minnet	_____	_____
Vice-Mayor Sasser	_____	_____
Commissioner Brown	_____	_____
Commissioner Dodd	_____	_____
Commissioner Vincent	_____	_____

Attest:

Town Clerk, June White, CMC

(CORPORATE SEAL)

Approved as to form:

Susan L. Trevarthen, Town Attorney

TOWN OF LAUDERDALE-BY-THE-SEA
PLANNING AND ZONING
REGULAR MEETING ACTION AGENDA
Town Commission Meeting Room
Wednesday, September 19, 2012
6:30 P.M.

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE TO THE FLAG

III. APPROVAL OF MINUTES – August 15, 2012

Eric Yankwitt made a motion to approve the August 15, 2012 minutes. Avi Braverman seconded the motion. The motion carried 5-0.

IV. PUBLIC COMMENTS

V. TOWN PLANNER REPORT

VI. NEW BUSINESS

Item #1 Conditional Use – Pier – withdrawn

Item #2 Proposed Amendments to Chapter 30 to Revise and Relocate Definitions Included in the Land Development Regulations.

David Channon made a motion to recommend approval of Item #2. Avi Braverman seconded the motion. The motion carried 5-0.

Item #3 Proposed Amendments to Chapter 30 to Implement Broward County Sunshot Grant

David Channon made a motion to recommend approval of Item #3 with a recommendation that the Town Planner research the possibility of requiring screening of the structures. William Brady seconded the motion. The motion carried 5-0.

VII. OLD BUSINESS

NONE

VIII. UPDATES/BOARD MEMBER COMMENTS

IX. ADJOURNMENT

Bill Brady made a motion to adjourn at 7:08 p.m.