

**TOWN OF LAUDERDALE-BY-THE-SEA  
TOWN COMMISSION  
REGULAR MEETING MINUTES  
Jarvis Hall  
4505 Ocean Drive  
Tuesday, October 14, 2014  
7:00 PM**

**1. CALL TO ORDER, MAYOR SCOT SASSER**

Mayor Scot Sasser called the meeting to order at 7:03 p.m. Also present were Vice Mayor Chris Vincent, Commissioner Mark Brown, Commissioner Stuart Dodd, Commissioner Elliot Sokolow, Town Manager Connie Hoffmann, Assistant Town Manager Bud Bentley, Finance Director Tony Bryan, Assistant to the Town Manager Pat Himelberger, Town Attorney Susan L. Trevarthen, Assistant Development Services Director Linda Connors, Municipal Services Director Don Prince, and Town Clerk Tedra Smith.

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

**3. INVOCATION**

Reverend George Hunsaker gave the Invocation.

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

Mayor Sasser requested the addition of Item 16a, Public Safety Sewer Update.

**5. PRESENTATIONS**

**a. 911 Regional Communications (Captain Fred Wood, BSO)**

Captain Fred Wood introduced Broward Sheriff's Office (BSO) Communications Director Rick Carpani, who provided a presentation on the regionalization of 911 services. Earlier in the year, BSO completed the consolidation of 29 of the County's 31 municipalities into this system, which allows emergency calls made from cell phones to be routed to the appropriate 911 call center. There are now three regional call centers within Broward County, which can send the appropriate response to an emergency call regardless of the caller's location.

Director Carpani noted that a recent service outage occurred due to a failure of the radio system, and was unrelated to the consolidation project. An illegal signal had interfered with the radio frequency and caused interruptions in BSO's system. BSO is still seeking the source of this interference.

**b. November 4<sup>th</sup> General Election Update (Tedra Smith, Town Clerk)**

It was noted that the representative from the Supervisor of Elections Office was not present at the meeting.

**c. Relay for Life Presentation (Tedra Smith, Town Clerk)**

John Boutin, Chairman of Relay for Life 2013-14, and Chelsea Wagner, representing the American Cancer Society, thanked the Town, the Commission, and Staff for their support of Relay for Life. Over \$50,000 was raised at the 2014 event, which was brought to the beach for the first time.

**d. Broward County Proclamation Honoring Allen "The Grouper" Sherrod (Tedra Smith, Town Clerk)**

Mr. Boutin presented a proclamation on behalf of County Commissioner Chip LaMarca, which recognized Allen "The Grouper" Sherrod's new world record for the longest open saltwater scuba dive, which lasted 51 hours, 4 minutes, and 28 seconds. The proclamation designated Saturday, September 20, 2014 as Allen "The Grouper" Sherrod Day in Broward County. Mr. Sherrod thanked the Town and the diving community for their support.

**6. PUBLIC COMMENTS**

Courtney Stanford, President of the Lauderdale-By-The-Sea Chamber of Commerce, introduced herself to the Commissioners. She stated that she looks forward to working with the Town.

Richard Black advised that he had worked with Allen Sherrod to schedule his record-breaking dive. He thanked the community for its support of the event, which brought a great deal of attention and publicity to the Town.

John Boutin, resident, also thanked the community for its support, and encouraged the Town's residents to appreciate its environment and natural amenities.

**7. PUBLIC SAFETY DISCUSSION**

No discussion.

**8. TOWN MANAGER REPORT**

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

Town Manager Connie Hoffmann reported that license plate reader (LPR) cameras have been installed at three entrances to the Town. BSO Captain Wood advised that

the cameras are currently live and operational, and have already read over 100,000 license plates.

Town Manager Hoffmann informed that a study conducted by Broward County Traffic Engineering Division, which considered a three-way STOP sign at the intersection of Washingtonia and Seagrape, determined that the sign was unwarranted at this location.

Town Manager Hoffmann noted that the Town plans to greatly expand its seasonal lighting for the December holidays and staff has been soliciting contributions from businesses towards that expense. Staff's goal is to have the businesses pay for approximately half the cost and, with commitments to date, they are likely to achieve that goal.

Town Manager Hoffmann noted that the Town had won the Florida Redevelopment Association's "President's Award" for the Commercial Boulevard streetscape project. This meant that, of all hundreds of projects submitted for awards in all categories from the Association, the Commercial Boulevard streetscape was deemed to be the best. She indicated the President of the FRA told her the degree to which the Town included public art in the project was a deciding factor for him. Mayor Sasser requested that former Mayor Roseann Minnet and Commissioner Birute Ann Clotey be invited to the Town Commission meeting when the video for the award is presented.

## **9. TOWN ATTORNEY REPORT**

Town Attorney Susan Trevarthen requested that an attorney-client shade session be scheduled for the case of *Palm Yacht and Beach Club et al. v. Town of Lauderdale-By-The-Sea*. The meeting was scheduled for October 28, 2014, at 6 p.m.

Town Attorney Trevarthen continued that she received a copy of a Cease and Desist letter addressed to Commissioner Dodd from attorney Robert Sweetapple, legal representative of Diamonds and Doggies. Attorney Trevarthen advised that the statements and actions of public officials in the scope of their duties are immune from liability via lawsuits and covered by the Town's insurance policy, although a coverage determination regarding the Town's Florida League of Cities insurance policy cannot be made in the absence of a specific complaint.

Commissioner Dodd has requested the Town's assistance in responding to the letter and providing him with a defense in the event of a lawsuit. If a suit is filed, the Town would submit the lawsuit to the Florida League of Cities for a formal determination of coverage and Commissioner Dodd would be represented by a League attorney, with no out-of-pocket costs to Commissioner Dodd or the Town. If the League were to determine there is no insurance coverage, the Town could then directly defend Commissioner Dodd and or seek outside counsel to handle his defense. The Town Attorney would maintain oversight of such outside counsel. The Town could absorb the defense costs up front, or could decide whether Commissioner Dodd should hire his

own counsel, assume the upfront costs and seek reimbursement from the Town pursuant to state statute.

Town Attorney Trevarthen requested direction from the Commission regarding this issue.

The Commission agreed by consensus that the Town Attorney should advise Commissioner Dodd in regard to the Cease and Desist letter. If a lawsuit is filed, the Commission consensus was that the Town should seek to determine whether Commissioner's Dodd defense is covered by the Florida League of Cities policy; if not, the Town would defend Commissioner Dodd, who would be represented by Town Attorney Trevarthen or outside counsel. Mayor Sasser added that if the Florida League of Cities policy does not cover a defense, the Town Commission would then decide whether to pay for Commissioner Dodd's defense up front.

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

- a. **September 9, 2014 Town Commission Meeting Minutes (Tedra Smith, Town Clerk)**
- b. **September 15, 2014 Special Town Commission Meeting (1<sup>st</sup> Public Budget Hearing) Minutes (Tedra Smith, Town Clerk)**

**Commissioner Sokolow made a motion, seconded by Vice Mayor Vincent, to approve both sets of minutes. Motion carried 5-0.**

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

Item 11b was pulled for further discussion.

**Commissioner Dodd made a motion, seconded by Vice Mayor Vincent, to approve [Items] 11a and 11c. Motion carried 5-0.**

- a. **Beach Cleaning Services Award (Don Prince, Municipal Services Director)**
- b. **Special Event Application for Marie White's "Santa is Coming to Town" Proposed for Saturday, December 13<sup>th</sup> (Bud Bentley, Assistant Town Manager)**

L. Peanuts Wick, resident, stated that condominiums may participate in the event by sponsoring toy boxes for underprivileged children.

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

**c. Special Event Permit Application for Christmas-By-The-Sea (Pat Himelberger, Assistant to the Town Manager)**

**12. ORDINANCES**

**Ordinances 1<sup>st</sup> Reading**

None.

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

None.

**13. RESOLUTIONS – PUBLIC COMMENTS**

None.

**14. QUASI JUDICIAL PUBLIC HEARINGS**

**a. Setback Variance Application for 1941 West Terra Mar Drive: Requesting Relief from the Broward County (Annexed Area) Code to Permit a Rear Setback of 5' where 15' is required (Linda Connors, Assistant Development Services Director)**

The Commission was asked to disclose any communications with the party requesting the variance and reported none. Members of the staff and public wishing to speak on this Item were sworn in.

Asst. Development Services Director Linda Connors reported that the Board of Adjustment recommended denial of the Application at its October 1, 2014 meeting. Documents from that meeting have been provided to the Commissioners.

Asst. Development Services Director Connors noted that the Applicant's architect contacted Town Staff in August 2013 to request setback information. The initial information provided by the staff included a typographical error listing the required rear setback as 5 ft. rather than 15 ft. Months later this error was discovered, at which point Staff provided corrected information but architectural design work had already been done.

Town Code states that an act or omission by a Town employee or its contractors is not binding if it results in an incorrect interpretation or application of Code. This Code may only be amended through the variance process, which requires applicants to meet the hardship test established in Code. Upon review of the Application, it was determined

that these criteria were not met, and the Application was denied by the Board of Adjustment.

Asst. Development Services Director Connors advised that the property's neighbors to the north and south have contacted Town Staff to state their opposition to the Application. The Board of Adjustment's vote to deny was unanimous (3-0). Staff supports the Board's recommendation to deny.

At this time Mayor Sasser opened public comment.

Leif Anel, owner of an adjacent property, entered a letter stating his opposition to the Application into the record. He asserted that the Application does not meet any of the criteria required for a hardship, and that the requested variance would have a negative impact on his property, particularly its view to the south.

As there were no other individuals wishing to speak on this Item, Mayor Sasser closed public comment and brought the discussion back to the Commission.

The Commissioners discussed the Application, noting that the requested 5 ft. setback would result in an unsafe proximity of the structure to the Intracoastal Waterway. The importance of maintaining setbacks and views along the waterway was also emphasized. Commissioners Vincent and Sokolow noted that the architect should have known the 5' setback requirement was a mistake.

**Commissioner Dodd made a motion, seconded by Commissioner Sokolow, to decline the Application for a variance. Motion carried 5-0.**

#### **15. COMMISSIONER COMMENTS**

Commissioner Dodd advised that the Coastal Oceans Task Force recently met and arrived at general consensus that the coral reef from Key Biscayne to Jupiter should be made into a marine preserve, designating some areas for recreational fishing and prohibiting this activity in other areas. He requested a presentation from Staff on this subject at a future meeting, as well as Commission support of a Resolution to create a preserve.

Commissioner Brown commented on the Cease and Desist letter described by Town Attorney Trevarthen, stating that claims asserting all dogs sold to pet stores come from puppy mills have not been verified to his satisfaction.

#### **16. OLD BUSINESS**

##### **a. Public Sewer Update (Don Prince, Municipal Services Director)**

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Municipal Services Director Don Prince recalled that at the September 23, 2014 Town Commission meeting, the Commission authorized replacement of the sanitary sewer line at the Town's Public Safety Building. Excavation beneath the building has since revealed that the building consists of 12 individually plumbed units, which add a total of total 188 linear ft. to the project. As a result, an additional \$28,150 is needed to complete the project. This amount may be taken from the General Fund Contingency account or from the funds budgeted toward a new air conditioning system at the same building.

Commissioner Sokolow spoke against deferring the air conditioning project, noting it would save the Town on energy costs.

**Commissioner Dodd made a motion, seconded by Commissioner Sokolow, to authorize the expenditure of \$56,300 for the emergency replacement of the sanitary sewer line at the Public Safety Building, and to approve a budgetary transfer of \$28,150 from General Fund Contingencies to account #001-541.100-500.624. Motion carried 5-0.**

## **17. NEW BUSINESS**

### **a. Bus Contract (Tony Bryan, Finance Director)**

Finance Director Tony Bryan recalled that in 2011, the Town piggybacked onto the bus contract for Hillsboro Beach to operate the shuttle system. This contract specified a rate of \$33.15 per hour of operation. Although the initial term of this agreement expired in October 2013, there were three potential one-year renewals built into the agreement. The term of the first renewal period will end on October 31, 2014.

Finance Director Bryan advised that the system operator, Limousine Services of South Florida, is unwilling to renew at the same rate, and is requesting a \$3 per hour increase. Finance Director Bryan advised that the Broward County Transit (BCT) Officer who oversees County shuttle operations has confirmed that this is a competitive rate for a single shuttle. A recent bid for a single shuttle operation in West Park had recently been awarded at a rate of \$54 per hour. If the service goes out to bid, Limousine Services of South Florida has indicated that if we did put it out to bid, their bid would be at a significantly higher rate than \$36.15/hour.

Town Staff requests direction from the Commission. If the Commission wished to allow the existing contract to be amended to reflect the proposed hourly rate and then extended, they would have to waive the purchasing manual. Mr. Bryan stated that the Town had budgeted for the requested increase.

**Commissioner Brown made a motion, seconded by Vice Mayor Vincent, to approve the increase in the rate and waive the purchasing manual. Motion carried 5-0.**

**b. Selection of Consultant(s) for Planning Services (RFP 14-07-02)  
(Linda Connors, Assistant Development Services Director)**

Asst. Development Services Director Connors stated that over the next two years, Development Services had a number of planning projects that need to be completed, including the State-mandated update to the Comprehensive Plan, implementation of code amendments called for in the Town's Strategic Plan, rewrite of parking regulations that may be recommended by the parking consultant, and other issues. Since the Town staff is very busy with development applications and reviews, an RFP was issued to select consultants to assist Staff in these efforts. Six firms responded to the RFP. The Evaluation Committee recommends the following four firms be placed on continuing contracts:

- JC Consulting Enterprises, Inc.
- Linda Strutt Consulting, Inc.
- Calvin Giordano and Associates, Inc.
- The Mellgren Planning Group

Asst. Development Services Director Connors clarified that the RFP was written with the intent of selecting more than one consultant due to the wide variety of planning issues the Town must address. Staff recommends that the Town Manager be allowed to execute professional service agreements with the four firms.

When projects or tasks are given to any consultant that will cost more than \$15,000 per year, they would come before the Town Commission for final approval.

**Commissioner Dodd made a motion, seconded by Vice Mayor Vincent, to approve the staff recommendation to retain the services of the four firms. Motion carried 5-0.**

**c. Proposed Revision of Section 30-326 General Regulations for Window Awnings and Entrance Canopies (Linda Connors, Assistant Development Services Director)**

Asst. Development Services Director Connors provided photographs of an awning proposed by a new business in Lauderdale-By-The-Sea. The proposed awning is striped with color accents, and conflicts with the colors of two other awnings already on the building. The code requires that all awnings on a single building be the same color. Staff feels greater flexibility in awning regulations is appropriate, and proposes the following amendments:

- Remove the single color requirement per building
- Require architectural review for awnings on commercial properties and residential properties with more than five dwelling units

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- Require a zoning permit for replacement of fabric awnings or canopies so that review is triggered, and signage on the awning can be addressed before the awning is erected
- Reorganize this section of the Code for greater clarity

Asst. Development Services Director Connors concluded that if the Commission wishes to proceed with the proposed amendments, staff will bring proposed amendments to the Planning and Zoning Board at their October meeting, and schedule the ordinance for first reading on October 28. It was clarified that Staff does not recommend allowing signage on both awnings and buildings.

**Commissioner Dodd made a motion, seconded by Vice Mayor Vincent, to forward the proposed changes to the Planning and Zoning [Board] for their consideration before bringing it back to the Commission. Motion carried 5-0.**

**d. Discussion of Section 17-91(m), No Signs on Sidewalk Café Fixtures  
(Commissioner Elliot Sokolow)**

Asst. Development Services Director Connors explained that café standards allow 4 in. letters on umbrellas and tabletops displaying the name of the business. Logos on café furniture is not allowed. The intent is to present a clean, simplified sidewalk experience that does not detract from businesses or view corridors.

Commissioner Sokolow advised that he had raised the issue because he did not want the Town to discourage businesses by being too restrictive. Asst. Development Services Director Connors noted that the Town works with businesses through the review process to arrive at a solution for their signage. Town Manager Hoffmann asserted that restrictions of this nature create value for both the Town and the property owners. She emphasized that these restrictions apply just to furniture located on Town property and that the Town had the right and a reason to limit business advertising on our property. She pointed out that many cities require businesses to adjust their branding for local Codes, yet the business remains recognizable to patrons.

The Commissioners decided by consensus against allowing logos on sidewalk café umbrellas, and decided that umbrella size should remain small in order to maintain ocean views. The Commission agreed they wanted the Planning and Zoning Board's feedback on allowing the use of logos and lettering on tables and chairs in the sidewalk cafes.

**e. Application for Relief of Code Enforcement Lien on Lot 2, 3 Block 20  
LBTS (Folio #494318012020) (Linda Connors, Assistant Development  
Services Director)**

Asst. Development Services Director Connors explained that Fisherman's Pier, Inc., is seeking relief from Code Enforcement liens on their property at the above address,

which is a parking lot. Code violations were issued for illegally parking cars on the parcel while the lot was considered to be vacant. In 2013, the Special Magistrate ordered parking on this lot to be stopped. Subsequently, at the Commission's request, the Magistrate reconsidered this order and allowed the area to be used for employee parking during the high season, with the proviso that construction of the lot be completed within 120 days.

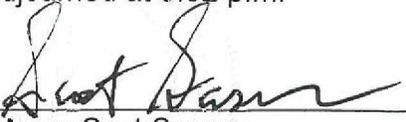
The violation cost \$200 per day for 110 days, resulting in a fine of \$22,100. But because the Applicant pulled the permit for construction within one day after the deadline, they are requesting that the violation be for one day rather than 110 days, and that the \$500 mitigation application fee go toward the cost of the violation. Staff recommends that the Commission establish the amount to which they are willing to mitigate, and make settlement contingent upon full payment being made to the Town within 30 days of Commission approval.

The Commissioners discussed the request, noting that no cars were parked on the lot during the majority of the time the property was out of compliance. Commissioner Brown clarified that the standard \$150 administrative fee should be added to the proposed \$200 fine. Commissioner Dodd noted, however, that the Applicant has six active violations unrelated to the subject property, and that the normal cost of mitigation is 20%-25%. He did not feel the Town should accept a significantly lesser amount from the Applicant. Asst. Development Services Director Connors clarified that while the Applicant's six active violations are not yet in compliance, no fines are owed for them thus far.

**Vice Mayor Vincent made a motion, seconded by Commissioner Brown, for a mitigation settlement of \$350 consisting of a Violation fine of \$200 and administrative fee of \$150. Motion carried 4-1 (Commissioner Dodd dissenting).**

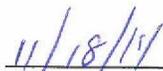
#### 18.ADJOURNMENT

With no further business before the Commission at this time, the meeting was adjourned at 9:32 p.m.

  
\_\_\_\_\_  
Mayor Scot Sasser

ATTEST:

  
\_\_\_\_\_  
Town Clerk Tedra Smith

  
\_\_\_\_\_  
Date