

**TOWN OF LAUDERDALE-BY-THE-SEA
TOWN COMMISSION
REGULAR MEETING MINUTES
Jarvis Hall
4505 Ocean Drive
Tuesday, November 18, 2014
7:00 PM**

1. CALL TO ORDER, MAYOR SCOT SASSER

Mayor Scot Sasser called the meeting to order at 7:05 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, Assistant to the Town Manager Pat Himelberger, Town Attorney Susan L. Trevarthen, Town Planner/Assistant Development Services Director Linda Connors, Municipal Services Director Don Prince, Public Information Officer Steve d'Oliveira, 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

Commissioner Brown asked that Item 13e be pulled from tonight's Agenda.

5. PRESENTATIONS

a. Sea Oats Planting Video (Commissioner Mark Brown)

Commissioner Brown explained that the video was filmed during recent sea oats plantings on the beach. Lee Gottlieb, Executive Director of the Youth Environmental Alliance, recalled that five plantings have been held thus far with the assistance of the Town, volunteers, and corporate partners. The goal is to plant sea oats along the entire length of the beach in Lauderdale-By-The-Sea.

b. Florida Development Group Presentation (Florida Development Group)

Mark Ellert updated the Commission on the pre-development planning of projects underway by the Florida Development Group. These are as follows:

- Beachside North: the former Howard Johnson's property, as well as Captain's Quarters
- 4560 El Mar Beach Club: formerly the Little Inn and Tropic Ranch properties

- Beachside South: former Holiday Inn and Villas Caprice properties

Mr. Ellert noted that because an agreement could not be reached regarding the extension of a lease for a portion of the parking lot at the Beachside North property, the Group is behind schedule on this project. The plan is currently to reorient the entrance to the property to El Mar Drive, which will require redevelopment of the ground floor. He reviewed the potential loss of units that would result from the reorientation, as well as the plans for Captain's Quarters.

Regarding 4560 El Mar Beach Club, Mr. Ellert advised that the project has been broken into two buildings with a breezeway between them. The quality of accommodations will be significantly improved, and all changes proposed to the property are consistent with the Town Code and Charter.

With respect to the former Holiday Inn property, Mr. Ellert explained that the Group plans to tear down the north wing of the structure and replace it with a one-level parking garage. This will remove 100 rooms from the building, which suffers from structural problems. Redeveloping the Villa Caprice property is the priority. He reviewed the conceptual plan for the former Holiday Inn site, which includes a one-level parking deck, renovation of guest rooms in the east tower, and repurposing of the public building into a small conference hall.

The Florida Development Group is interviewing potential management companies for the properties, which will total roughly 350 rooms between them. They hope to finalize a Master Plan within the next two weeks, and are working with Staff to produce Site Plan packages for the projects.

The Commissioners emphasized the need for the Group to remain in touch with the Town, the Florida Department of Transportation (FDOT), and the Broward Metropolitan Planning Organization (MPO) with regard to the El Mar Greenway plans. It was also requested that the Group coordinate any plans for the beach with Town Staff.

Mr. Ellert said the permitting process is expected to be complete by spring or early summer, with the northern project complete by October 2015, in time for the Boat Show.

6. PUBLIC COMMENTS

Ned Seibert, resident, spoke with regard to a recent Florida Power and Light (FPL) pole installation on El Mar Drive. He felt the Town Commission shared the blame for the deterioration of property values in the subject area, as they have allowed poles to be removed, wiring transferred, and utilities undergrounded in this area.

Dan Kanell, resident, also requested that the Town petition FPL and ask that they remove a pole in front of the residences at 4316 El Mar Drive and replace it with a larger pole without guy wires.

Evelyn Talbort, resident, stated that she supported Mr. Seibert's comments, noting that the residents at 4316 El Mar Drive are affected visually and through their property values by the FPL pole.

Dorothy Seibert, resident, expressed concern with the FPL power line, stating that its wires directly affect the view from her property. She felt this was inappropriate in a residential neighborhood.

7. PUBLIC SAFETY DISCUSSION

a. BSO October 2014 Report (Captain Fred Wood)

Captain Fred Wood of the Broward Sheriff's Office (BSO) described a theft that occurred in one of the Town's hotels. An arrest was made, aided by information from the recently installed license plate reader (LPR) cameras.

Town Manager Connie Hoffmann advised that the Florida Department of Transportation (FDOT) is expected to send a follow-up letter to municipalities with LPR cameras, informing those municipalities that FDOT will work with the State legislature and the Florida Police Chiefs' Association to develop rules for these cameras' use.

b. AMR October 2014 (Chief Brooke Liddle)

The Commissioners accepted the report without comment.

c. VFD October 2014 (Chief Judson Hopping)

The Commissioners accepted the report without comment.

Commissioner Dodd made a motion, seconded by Vice Mayor Vincent, to approve all three. Motion carried 5-0.

8. TOWN MANAGER REPORT

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

Town Manager Hoffmann reviewed the quarterly ridership statistics for the Pelican Hopper, which reflect year-over-year increases between 24% and 54%.

Municipal Services Director Don Prince reported that the Park improvements are now underway.

Town Manager Hoffmann recalled that there had been a suggestion to make tennis court improvements at Friedt Park during the current fiscal year (FY) rather than next

year. She pointed out that the funds for this renovation can be taken from the General Fund. A budget amendment will be made later in the year to appropriate these funds.

Commissioner Dodd made a motion, seconded by Vice Mayor Vincent, to approve [these improvements] all together. Motion carried 5-0.

Town Manager Hoffmann continued that Commissioner Dodd had also recommended improved lighting for the plaza sculptures. The existing LED lights on the entryway sculpture will be replaced by metal halide lights, and the LED lights will then be used on a smaller sculpture on a trial basis to determine whether or not they provide sufficient lighting.

The Bel Air drainage project is complete, and the Commercial Boulevard median reconstruction is essentially complete except for striping. The city of Fort Lauderdale is working with Town Engineer Jay Flynn to correct an error they made in the restoring the road base when moving a fire hydrant. The correction will be made during the next phase of the project.

The Commissioners discussed the FPL utility pole issue raised during Public Comment. Municipal Services Director Prince pointed out that the only new part of the installation is the guy wires, which are part of FPL's line hardening project and are unrelated to the Downtown undergrounding project.

Town Manager Hoffmann stated that the Town reached out to FPL to determine whether or not there is an alternative to the current installation. FPL responded that the only alternative is a larger concrete pole, which would be much more expensive. She also noted that the Town was not told what the installation would look like before it was made.

The Commissioners discussed their options in approaching FPL on behalf of the residents affected by the installation, confirming that FPL has indicated they will meet with these residents. It was suggested that the Town may be able to put some pressure on FPL to rectify the situation, or find another way to address the issue, such as undergrounding utilities; however, Commissioner Sokolow advised that there is no such leverage except the Public Service Commission. He recommended that the residents present their petition to this agency.

Commissioner Dodd advised that an alternative solution might be to find out how much replacing the pole might cost, and determine whether or not the Oriana residents and the Town might be able to come up with a solution regarding the amount. He pointed out that the Town's electrical supply will be more reliable once FPL's infrastructure hardening project is complete. Town Manager Hoffmann noted that it may be possible to include the cost of replacing the pole in the El Mar Drive Greenway project, although this would mean replacement is over two years in the future. The Commissioners agreed by consensus to determine what options are available with regard to the pole.

b. September 2014 Finance Report (Tony Bryan, Finance Director)

The Commissioners accepted the report without comment.

**c. Chamber of Commerce Monthly Statistics Report for October 2014
(Tedra Smith, Town Clerk)**

It was noted that visits to the Chamber's website have increased significantly during the past month. Sales of public bus tickets at the Welcome Center have increased as well.

9. TOWN ATTORNEY REPORT

Town Attorney Trevarthen requested a shade session to discuss the ongoing litigation regarding the Resource Recovery Board.

She also advised that the sidewalk café agreements serve as licenses allowing commercial activity on public property; the Code provisions governing these cafés are intended to protect the Town. Property owners are asked to sign these licenses because they have rights in dealing with their tenants that the Town itself does not have.

Assistant Town Manager Bud Bentley explained that this issue arose when a property owner objected to signing an encroachment agreement for his/her tenant. This objection may result in fewer restaurants being able to implement sidewalk cafés. Town Manager Hoffmann noted that the risk involved in a sidewalk café is minimal, and the property owner is not asked to assume liability.

The Commissioners discussed the requirement of property owner participation, resulting in consensus that this requirement can be removed from the Code as long as tenants have sufficient insurance to address liability. It was decided that the sidewalk café license forms will be adjusted to reflect this change, and any accompanying adjustments to Code will be brought back before the Commission in the form of an Ordinance.

10. APPROVAL OF MINUTES

- a. October 14, 2014 Town Commission Meeting Minutes (Tedra Smith, Town Clerk)**
- b. October 28, 2014 Town Commission Meeting Minutes (Tedra Smith, Town Clerk)**

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

11. CONSENT AGENDA

- a. Extension of IT Services Agreement (Tony Bryan, Finance Director)**
- b. Purchase of Toyota Prius (Assistant Town Manager Bud Bentley)**

Asst. Town Manager Bentley disclosed that a member of his family is affiliated with a distributor of Toyota vehicles. Town Attorney Trevarthen clarified that this does not constitute a legal conflict, although the disclosure was appropriate.

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

- c. Cancellation of November 25, 2014 and December 23, 2014 Town Commission Meetings (Tedra Smith, Town Clerk)**

Commissioner Dodd made a motion, seconded by Commissioner Sokolow, to approve Items 11a and 11c. Motion carried 5-0.

12. OLD BUSINESS

- a. Amendment to an Existing Order Reducing Code Enforcement Liens for 4116 North Ocean Drive and 4108 and 4110 El Mar Drive (Linda Connors, Assistant Development Services Director)**

Assistant Development Services Director Linda Connors explained that Staff has proposed the following amendments to some of the milestones in the existing development order:

- Complete architectural review by February 28, 2015;
- Obtain building permits by September 30, 2015;
- Obtain certificate of occupancy for each of the subject properties no later than August 31, 2016.

Asst. Development Services Director Connors clarified that in the event an applicant has difficulty obtaining a building permit, the Town Manager may act to provide additional time.

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

- b. Construction Extension Request for 4209 and 4213 Bougainville Drive (Linda Connors, Assistant Development Services Director)**

Asst. Development Services Director Connors recalled that this request was first reviewed in 2013; however, the property owner has experienced multiple issues

resulting in delays, and is currently in the process hiring a new contractor to finish construction on the property. The concerns of a neighboring homeowner were addressed through the following conditions:

1. Relocate the construction fence 15 ft. to the west by November 29, 2014;
2. Landscape this 15 ft. area with sod and maintain the landscaping;
3. Complete 4209 Bougainvillea Drive's exterior structure, including painting, by February 1, 2015;
4. Complete 4213 Bougainvillea Drive's exterior structures, including painting, by March 1, 2015
5. Secure a final certificate of occupancy for both buildings by April 30, 2015.

Commissioner Dodd made a motion, seconded by Vice Mayor Vincent, to approve with Staff conditions. Motion carried 5-0.

The Commissioners took a brief recess at this time.

13. NEW BUSINESS

a. Planning Services Contracts (Linda Connors, Assistant Development Services Director)

Asst. Development Services Director Connors recalled that in October, the Town Commission approved the selection of four planning consultants. The agreements with J.C. Consulting Enterprises, Linda Strutt Consulting, Calvin Giordano and Associates, and the Mellgren Planning Group were presented for approval.

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

b. Street Vendors – Public Performers in Public Right-of-Way (Pat Himelberger, Assistant to the Town Manager)

Assistant to the Town Manager Pat Himelberger recalled that this issue was previously discussed with the Commission, who opted at that time to let the market determine which performers would be wanted in the public realm. She explained, however, that there have been issues with certain vendors who act in an aggressive manner, despite having been provided with verbal guidelines by Town Staff. Town Manager Connie Hoffmann advised that Staff is now working to refine the appropriate Ordinance regarding vendors in public rights-of-way.

Assistant Himelberger continued that she had contacted several municipalities across the country to determine the guidelines they use to regulate street vending and performing. She advised that while performers are allowed their First Amendment rights, they may be regulated for safety purposes.

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It was noted that a formal regulatory structure makes it easier for Town Staff or Police to remove performers who may become problematic. Town Attorney Trevarthen clarified that a municipality's streets and parks are considered the most protected areas in terms of engaging in free expression; however, the Town retains the ability to regulate the time, place, and manner of First Amendment activity, which means individuals who wish to be in these locations for an extended period of time must apply for permits.

The Commissioners agreed by consensus to have Staff proceed with drafting an Ordinance to regulate vending or performing in public rights-of-way.

c. Special Event Permit Application for 2015 Lauderdale-By-The-Sea Pro Foot Volley Open (Pat Himmelberger, Assistant to the Town Manager)

It was noted that the sale of beer at the proposed event would be located within the confines of the event itself, on the beach. While Town Ordinances prohibit alcohol sales on the beach, Town Attorney Trevarthen pointed out that there is a precedent of approving alcohol sales at specific beach events. It was clarified that the Town's special event permit requires liability insurance and a liquor license.

Town Manager Hoffmann noted that the event provides both residents and tourists with an enjoyable activity; in addition, if the event is televised, it will provide exposure for the Town. Mayor Sasser advised that the Town's restaurants and other businesses may wish to participate in the event in some way.

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

d. Neighborhood Grant Applications (Pat Himmelberger, Assistant to the Town Manager)

Asst. to the Town Manager Himmelberger explained that \$30,000 is budgeted each year for neighborhood improvement grants. This year, both the Bel Air Civic Association and the Terra Mar Island Civic Association have applied for grants. Bel Air plans to make minor improvements such as pavers and benches on Ocean Drive, as well as a walkway around the gate and pillars at the entryways. The Town Engineer has approved the feasibility of their plan. Terra Mar plans to replace their sign with a new one and slow traffic on either side of the gate with an extension of stamped asphalt. The total amount applied for by both Civic Associations is \$29,900. Staff recommended approval of both Applications.

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

e. Survey of Invasive Vegetation along the Beach (Commissioner Brown)

This Item was pulled from the Agenda.

f. Commission Salary Increase (Tony Bryan, Finance Director)

Mayor Sasser advised that the 5% across-the-board increase is included in the Town's budget. It was estimated that the total amount for the entire Commission for the year is approximately \$2,500-\$3,000.

Commissioner Dodd made a motion, seconded by Commissioner Brown, to approve. Motion carried 4-1 (Mayor Sasser dissenting).

It was noted that Staff would determine if the increase could be made retroactive to October 1, 2014.

g. National Marine Sanctuary Proposal (Steve d'Oliveira, Public Information Officer)

Public Information Officer Steve d'Oliveira reported that he had looked into the necessary procedures to establish a national marine sanctuary. In early 2015, the Southeast Coastal Oceans Task Force will recommend that a sanctuary be established off Broward, Miami-Dade, Palm Beach, and Martin Counties. The application would then be sent on to the National Oceanic and Atmospheric Administration (NOAA), which would review it and hold public meetings. The entire process takes approximately two to five years.

The Commissioners discussed the Item, requesting additional information on how designation as a national marine sanctuary would affect diving, fishing, boating, and other activities. Public Information Officer d'Oliveira advised that NOAA will look at a range of environmental and recreational issues before determining what would or would not be prohibited in certain areas. It was determined that Staff would continue to look into the issue of establishing a sanctuary.

h. Approval of a GMP with State Contracting & Engineering Corp (SCEC) for the Construction of Drainage Improvements of Pine Avenue (Connie Hoffmann, Town Manager)

Town Manager Hoffmann stated that Town Staff feels there are portions of the contract in which expenses may be reduced. She requested that the Commission act to approve a GMP no greater than \$138,110.

Vice Mayor Vincent made a motion, seconded by Commissioner Sokolow, to approve a GMP not to exceed \$138,110. Motion carried 5-0.

Town Manager Hoffmann recommended that roughly \$40,000 be taken from the beach renourishment project, as the County has just received permits to proceed with this project and expects to begin in early 2015. It was noted that the only commitment the Town has made thus far is allowing the use of the Palm Avenue portal for the delivery of sand. Town Attorney Trevarthen advised that if the County is willing to pay for the entirety of the project, she was not certain that the Town could take any action to prohibit activity.

i. Commercial Use of the Beach (Connie Hoffmann, Town Manager)

Town Manager Hoffmann noted that Town Code is very restrictive regarding commercial use of the beach; however, the Town regularly receives requests from entities or individuals who wish to hold classes or establish concessions on the beach. The Item is on the Agenda since the Town has recently been approached by multiple vendors.

The Commissioners discussed the issue, noting that this Item is similar to the discussion of street vendors: if a regulatory structure is in place, the Town will be able to enforce the prohibition of unwanted beach vendors while allowing activity on an approved basis. There was agreement that Code should remain restrictive to a degree.

Town Attorney Trevarthen advised that an Ordinance amendment will be necessary in order to allow the Town greater flexibility in approving events, although she cautioned that this amendment will need to include criteria to be met by prospective vendors. She stated that she would work with Staff to determine the details.

Jerry Sehl, representing the Kiwanis Club, stated that he approached the issue from a fundraising perspective. He pointed out that a beach chair fundraising concession would be a local initiative.

14. ORDINANCES

Ordinances 1st Reading

None.

Ordinances 2nd Reading

- i. Ordinance 2014-17 – An Ordinance of the Town of Lauderdale-By-The-Sea, Florida, amending Chapter 30, Unified Land Development Regulations, of the Code of Ordinances, Section 30-326, “General Regulations for Window Awnings and Entrance Canopies,” to update standards and review requirements for awnings and entrance canopies; and**

providing for codification, severability, conflicts, and an effective date (Linda Connors, Town Planner / Assistant Development Services Director)

At this time Mayor Sasser opened public comment.

Bill Ciani, property owner, advised that a tenant on his property has submitted an awning application. He expressed concern with the language of the hold-harmless agreement he was asked to sign, which he characterized as much greater than what an insurance company would be willing to do. He felt the agreement was prohibitive when applied to an awning application.

With no other individuals wishing to speak on this Item, Mayor Sasser closed public comment.

Town Attorney Trevarthen explained that Mr. Ciani was referring to the indemnification agreement in the Town's encroachment agreement for awnings, which includes a duty to defend in addition to the required insurance policy. She pointed out that the agreement is a risk management tool.

The Commissioners discussed the indemnification agreement, with Commissioner Sokolow stating that he did not feel this agreement was necessary, although he supported the other proposed changes to the Ordinance. Town Manager Hoffmann observed that there may be significantly greater liability from an awning attached to a building than from sidewalk café furniture.

Mayor Sasser requested that the Commission take action on the Ordinance itself before returning to the discussion of insurance indemnification.

Commissioner Sokolow made a motion, seconded by Vice Mayor Vincent, to adopt the Ordinance on second reading as amended. Motion carried 5-0.

The discussion returned to indemnification, with Vice Mayor Vincent stating he did not feel the Commission should concede this issue. It was clarified that if the property owner does not sign the indemnification agreement, the tenant may not install an awning that encroaches on public property. It was agreed that this Item would be brought back as an Agenda Item at a subsequent meeting for additional discussion.

- ii. **Ordinance 2014-18 – An Ordinance of the Town of Lauderdale-By-The-Sea, Florida, amending Chapter 17, “Streets, Sidewalks, and Other Public Places,” Article VI, “Sidewalk Cafés,” of the Code of Ordinances, to update requirements for Sidewalk Cafés; and providing for codification, severability, conflicts, and an effective date (Linda Connors, Town Planner / Assistant Development Services Director)**

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Asst. Development Services Director Connors recommended that this Item be deferred to the next scheduled meeting in light of the changes recommended to the Town's sidewalk café agreement.

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

Commissioner Sokolow made a motion, seconded by Vice Mayor Vincent, to table [this Ordinance] until the December 9 meeting. Motion carried 5-0.

15. RESOLUTIONS – PUBLIC COMMENTS

- a. **Resolution 2014-44 – A Resolution of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, amending the 2013/2014 Fiscal Year Budget in accordance with the attached Exhibit “A;” authorizing appropriations and expenditures in accordance with the 2013/2014 Fiscal Year Budget as amended; providing for conflicts; providing for severability; and an effective date (Tony Bryan, Finance Director)**

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

Commissioner Sokolow made a motion, seconded by Commissioner Brown, to adopt. Motion carried 5-0.

- b. **Resolution 2014-45 – A Resolution of the Town of Lauderdale-By-The-Sea, Florida, authorizing and directing the appropriate Town Officials to execute a Grant Application for funds available through the Community Development Block Grants Program through Broward County for the Fiscal Year 2015/2016; providing for repeal of any conflicting Resolution; providing for severability; and providing an effective date (Tony Bryan, Finance Director)**

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

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

16. QUASI JUDICIAL PUBLIC HEARINGS

None.

17. COMMISSIONER COMMENTS

Vice Mayor Vincent thanked the volunteers who had assisted with the Town's Halloween event, including Town Staff, the Volunteer Fire Department, Interior Digs, Sunny Eckerd and others who helped make the event a success. He added that the Town's out-of-pocket expense was \$802.56.

Commissioner Dodd advised that there was no news to report from the November 17 Hillsboro Inlet meeting, and no Coastal Oceans Task Force meeting will be held until January 2015. He concluded that he did not have a clear idea of what the Town would like him to recommend at the next Task Force meeting.

Commissioner Brown reminded all present that the next El Mar Greenway meeting is scheduled for Monday, December 8 at 7 p.m. Two public meetings have been held thus far.

He added that he serves on the Florida League of Cities' Environmental, Energy, and Natural Resources Task Force, which was asked to determine the two major issues within these categories that the State legislature should address. The number one item, by a unanimous vote, was funding to join septic tanks to municipal sewer systems.

Commissioner Brown also noted that in the recent State referendum regarding legalization of medical marijuana, 65% of Town residents in the south district and 61% in the north district voted in favor of a State Constitutional amendment.

18. ADJOURNMENT

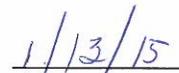
With no further business to come before the Commission at this time, the meeting was adjourned at 11:04 p.m.



Mayor Scot Sasser

ATTEST:


Town Clerk Tedra Smith



Date