



Item No. 10.1.a

TOWN OF LAUDERDALE-BY-THE-SEA

AGENDA ITEM REQUEST FORM

Development Services

Department Submitting Request

Dept Head's Signature 

Commission Meeting Dates	Last date to turn in to Town Clerk's Office	Commission Meeting Dates	Last date to turn in to Town Clerk's Office	Commission Meeting Dates	Last date to turn in to Town Clerk's Office
<input type="checkbox"/> May 25, 2010	May 14 (5:00 p.m.)	<input type="checkbox"/> July 27, 2010	July 16 (5:00 p.m.)	<input type="checkbox"/> Oct 26, 2010	Oct 15 (5:00 p.m.)
<input type="checkbox"/> June 8, 2010	May 28 (5:00 p.m.)	<input checked="" type="checkbox"/> Aug 25, 2010			
<input type="checkbox"/> June 22, 2010	June 11 (5:00 p.m.)	<input checked="" type="checkbox"/> Sept 14, 2010	Sept 3 (5:00 p.m.)	<input type="checkbox"/> Nov 9, 2010	Oct 29 (5:00p.m.)
<input type="checkbox"/> July 13, 2010	June 2 (5:00 p.m.)	<input type="checkbox"/> Sep 28, 2010*	Sept 17 (5:00 p.m.)	<input type="checkbox"/> Nov 23, 2010	Nov 12 (5:00p.m.)
		<input type="checkbox"/> Oct 12, 2010	Oct 1 (5:00p.m.)	<input type="checkbox"/> Dec 14, 2010	Dec 3 (5:00p.m.)

* Subject to change – Sukkot

NATURE OF AGENDA ITEM

- Presentation
- Resolution
- Manager's Report
- Public Safety Report
- Quasi Judicial
- Attorney's Report
- Consent Agenda
- Old Business
- Other
- Ordinance
- New Business

SUBJECT TITLE: First Reading, Ordinance 2010-11, Abandoned Real Property

EXPLANATION: This item was presented to the Commission on January 26, 2010 under New Business (b). Direction was given to staff and requested the item go to the Planning and Zoning Board. Time line of events:

- 01-26-10 – Town Commission approved the item moving forward with recommendations and direction to have P&Z provide a recommendation.
- 06-16-10 – Planning and Zoning tabled the item until 07-21-10 requesting staff to provide information on how this type of ordinance has operated for other cities.
- 07-21-10 – Planning and Zoning recommended approval.

Attachment "A" – P&Z minutes

STAFF RECOMMENDATION: Staff concurs with P&Z to approve.

BOARD/COMMITTEE RECOMMENDATION: Approval

FISCAL IMPACT AND APPROPRIATION OF FUNDS: N/A

- Amount \$ _____
- Acct # _____
- Transfer of funds required
- From Acct # _____
- Bid
- Grant
- Amount represents matching funds

Town Attorney review required

- Yes
- No

Town Manager's Initials: AS

ORDINANCE 2010-11

1 AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-
2 THE-SEA, FLORIDA, AMENDING CHAPTER 11 OF THE
3 CODE OF ORDINANCES BY ESTABLISHING ARTICLE 1
4 FOR EXISTING CODE PROVISIONS RELATED TO JUNKED,
5 WRECKED, STOLEN OR ABANDONED PERSONAL
6 PROPERTY; FURTHER ESTABLISHING ARTICLE II
7 "ABANDONED REAL PROPERTY", TO PROVIDE FOR
8 REGISTRATION, MONITORING AND UPKEEP OF
9 MAINTENANCE OF ABANDONED REAL PROPERTY;
10 PROVIDING FOR SEVERABILITY; PROVIDING FOR
11 CODIFICATION; AND PROVIDING FOR AN EFFECTIVE
12 DATE.

13
14 WHEREAS, Chapter 11 of the Code of Ordinances regulates junked, wrecked, stolen or
15 abandoned property; and

16 WHEREAS, the Town Commission has determined that it is in the best interest of the
17 Town to establish separate Articles within Chapter 11 to address both personal and real property;
18 and

19 WHEREAS, the Planning and Zoning Board has reviewed this Ordinance at duly noticed
20 hearings on June 16, 2010 and July 21, 2010, and recommended its adoption; and

21 WHEREAS, the Town Commission desires to provide for registration of abandoned and
22 foreclosed homes, and for monitoring and maintenance of abandoned real property; and

23 WHEREAS, the Town Commission hereby finds and declares that adoption of this
24 Ordinance is necessary, appropriate, and advances the public interest.

25 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE
26 TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, THAT:

27 SECTION 1. The preceding "Whereas" clauses are ratified and incorporated as the
28 legislative intent of this Ordinance.

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30 **SECTION 2.** Section 11-1 through 11-8 shall hereinafter be included in and identified
31 under **ARTICLE I. “JUNKED, WRECKED, STOLEN OR ABANDONED PERSONAL**
32 **PROPERTY.”**¹

33 **SECTION 3.** **ARTICLE II. “ABANDONED REAL PROPERTY,”** of Chapter 11 of
34 the Code of Ordinances is established to read as follows²:

35 **ARTICLE II. ABANDONED REAL PROPERTY**

36
37 **Sec. 11-21. Definitions.**

38
39 The following words, terms and phrases, when used in this Article, shall have the
40 meanings ascribed to them in this Section, except where the context clearly
41 indicates a different meaning:

42
43 Abandoned real property means any property that is vacant and is under a current
44 notice of default and/or notice of mortgagee's sale by the lender or a pending tax
45 assessors lien sale and/or properties that have been the subject of a foreclosure
46 sale where the title was retained by the beneficiary of a mortgage involved in the
47 foreclosure and any properties transferred under a deed in lieu of foreclosure or
48 sale.

49
50 Accessible means that a property or structure, or any portion thereof, can be
51 illegally entered or accessed by the public at large including through a
52 compromised/breached gate, fence, wall, door, window, roof, etc.

53
54 Enforcement officer means any fulltime law enforcement officer, building official,
55 zoning inspector, code enforcement officer, fire inspector or building inspector
56 employed within the Town.

57
58 Evidence of vacancy means any condition that on its own, or combined with other
59 conditions present would lead a reasonable person to believe that the property is
60 vacant. Such conditions may include, but not be limited to, overgrown and/or
61 dead vegetation, accumulation of abandoned real property, as defined herein,
62 statements by neighbors, passers-by, delivery agents or government agents,
63 among other evidence that the property is vacant.

64
65 Foreclosure means the process by which a property, placed as security for a real
66 estate loan, is sold at public sale to satisfy the debt if the borrower defaults.
67

¹ Note to codifier: Sections 11-9 through 11-20 are reserved for Article I.

² Additions to existing text are shown in underline. Deletions are shown in ~~strikethrough~~.

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68 Out-of-area mortgagee means any person, company, or other organization who
69 holds a mortgage on real property located within the Town, whose place of
70 business is located outside of Palm Beach, Broward or Miami-Dade Counties.

71
72 Property management company means a local property manager, property
73 maintenance company or similar entity located within Palm Beach, Broward or
74 Miami-Dade Counties, responsible for the maintenance of abandoned real
75 property.

76
77 Secure manner means maintenance of a structure such that it is not accessible and
78 shall include, but is not limited to, the closure and locking of windows, doors,
79 gates and other openings of such size that may allow a child to access the interior
80 of the property and/or structure. Broken windows shall be secured by reglazing or
81 boarding of the window.

82
83 Vacant means any building/structure that is not legally occupied.

84
85 **Sec. 11-22. Registration.**

86
87 (a) Any mortgagee who holds a mortgage on real property located within the
88 Town shall perform an inspection of the property that is the security for the
89 mortgage, upon default by the mortgagor, prior to the issuance of a notice of
90 default. If the property is found to be vacant or shows evidence of vacancy, it
91 shall be deemed abandoned and the mortgagee shall, within ten (10) days of the
92 inspection, register the property with the Director of Development Services, or his
93 or her designee, on forms provided by the Town. A registration is required for
94 each vacant property.

95
96 (b) If the property is occupied but remains in default, it shall be inspected by the
97 mortgagee or his or her designee on a monthly basis until (1) the mortgagor or
98 other party remedies the default, or (2) the property is found to be vacant or shows
99 evidence of vacancy at which time it is deemed abandoned, and the mortgagee
100 shall, within ten (10) days of that inspection, register the property with the
101 Director of Development Services, or his or her designee, on forms provided by
102 the Town.

103
104 (c) Registration pursuant to this Article shall contain the name of the mortgagee,
105 the direct mailing address of the mortgagee, a direct contact name and telephone
106 number of mortgagee, facsimile number and e-mail address and, in the case of an
107 out-of-area mortgagee, the local property management company responsible for
108 the security and maintenance of the property.

109
110 (d) An annual registration fee in the amount of one hundred fifty dollars
111 (\$150.00), per property, shall accompany the registration form(s). Registrations
112 shall be renewed annually so long as the property remains vacant.
113

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114 (e) This Article shall also apply to properties that have been the subject of a
115 foreclosure proceeding where the title was transferred to the beneficiary of a
116 mortgage involved in the foreclosure and any properties transferred under a deed
117 in lieu of foreclosure/sale.

118
119 (f) Properties subject to this Article shall remain under the annual registration
120 requirement, and all security and maintenance standards established within this
121 Article, as long as they remain vacant.

122
123 (g) Any mortgagee and/or property owner of record that has registered a
124 property under this Article must report any change of information contained in the
125 registration within ten (10) days of the change.

126
127 **Sec. 11-23. Maintenance requirements.**

128
129 (a) Properties subject to this Article shall be kept free of weeds, overgrown
130 brush, dead vegetation, trash, junk, debris, building materials, any accumulation
131 of newspapers, circulars, flyers, notices, except those required by federal, state, or
132 local law, discarded personal items including, but not limited to, furniture,
133 clothing, large and small appliances, printed material or any other items that give
134 the appearance that the property is abandoned.

135
136 (b) The property shall be maintained free of graffiti or similar markings by
137 removal or by painting with an exterior grade paint that matches the color of the
138 exterior structure.

139
140 (c) Front, side, and rear yard landscaping shall be maintained in accordance with
141 the Town Code applicable at the time registration was required.

142
143 (d) Maintenance may include, but is not limited to, watering, irrigation, cutting,
144 and mowing of required landscape and removal of all trimmings.

145
146 (e) Pools and spas shall be maintained so the water remains free and clear of
147 pollutants and debris. All pools and spas shall comply with the enclosure
148 requirements of the Town Code.

149
150 (f) All properties, including pools, spas, ponds and buildings shall be maintained
151 free of stagnant water, rubbish, debris, and all other objectionable, unsightly or
152 unsanitary matter so as to prevent any condition wherein a property is or may
153 reasonably become infested with or inhabited by rodents, vermin or wild animals,
154 or may furnish a breeding place for mosquitoes, or threaten or endanger the public
155 health, safety, or welfare, or may reasonably cause disease or adversely affect and
156 impair the economic welfare of adjacent property.

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Sec. 11-24. Security requirements.

(a) Properties subject to this Article shall be maintained in a secure manner so as not to be accessible to unauthorized persons.

(b) If the property is owned by an out-of-area mortgagee, a local property management company shall be contracted to perform bi-weekly inspections to verify compliance with the requirements of this Article, and any other applicable laws.

(c) The property shall be posted with the name and the twenty-four (24) hour contact phone number of the local property management company. The posting shall be no less than an eight-inch by ten-inch sign. The posting shall contain the following language, filling in the blanks with the appropriate information:

THIS PROPERTY IS MANAGED BY: _____
TO REPORT PROBLEMS OR CONCERNS CALL: _____

The posting shall be placed in a visible location on the interior of a window, or secured to the exterior of the building/structure facing the street to the front of the property or, if no such area exists, on a stake of sufficient size to support the posting in a location as close as possible to the main door entrance of the property. Exterior postings shall be constructed of and printed with weather-resistant materials.

(d) The mortgagee, property owner of record, and/or the local property management company shall inspect the property on a bi-weekly basis to ensure that the property is in compliance with this Article. Upon the request of the Town, the inspection reports shall be made available to the Director of Development Services, or his or her designee.

Sec. 11-25. Enforcement; opposing, obstructing enforcement officer.

(a) Failure of the mortgagee, property owner of record, and/or the local property management company, to register, inspect, properly maintain and/or secure the property or otherwise comply with this Article may result in a violation of the Town Code and the issuance of a citation or notice of violation/notice of hearing by an enforcement officer. Pursuant to a finding and determination by the Town's special magistrate, the Town may take the necessary action to ensure compliance with this Section including, if directed by the special magistrate, remedial action to correct the violations at the expense of the property owner.

(b) Any person who opposes, obstructs or resists any enforcement officer or any person authorized by the enforcement officer in the discharge of duties as provided in this Article, shall be punished as provided for within Section 1-12.

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206 (c) The penalties for violations of this Article shall be pursuant to Florida Local
207 Government Code Enforcement Boards Act, as set forth in Florida Statutes
208 Section 162.09, as amended from time to time, and the minimum penalties shall
209 be as follows:

210
211 (1) First violation . . . \$250.00.

212
213 (2) Second violation within 12 months of adjudication of first violation . . .
214 \$500.00.

215
216 **Sec. 11-26. Immunity of enforcement officer.**

217
218 Any enforcement officer or any person authorized by the enforcement officer
219 shall be immune from prosecution, civil or criminal, for reasonable, good faith
220 trespass upon real property while in the discharge of duties imposed by this
221 Article.

222
223 **Sec. 11-27. Additional authority.**

224
225 The Director of Development Services, or his or her designee, shall have authority
226 to require the mortgagee and/or owner of record of any property affected by this
227 Article, to implement additional maintenance and/or security measures including,
228 but not limited to, securing any and all door, window or other openings,
229 employment of an on-site security guard, or other measures as may be reasonably
230 required to help prevent further decline of the property.

231
232 **Sec. 11-28. Adoption of rules; Expenditure of funds; Declaration of Town**
233 **purpose.**

234
235 The Town Manager, consistent with his/her duties and authorities under the Town
236 Charter, including those duties and authorities relating to emergency situations, is
237 authorized and empowered to adopt rules and regulations and expend Town funds
238 as may be reasonably necessary and available to carry out the terms of this
239 Article, the expenditure of such funds being declared a proper Town purpose.

240
241 **SECTION 4. Severability.** If any section, sentence, clause or phrase of this Ordinance is
242 held to be invalid or unconditional by any court of competent jurisdiction, then said holding shall in
243 no way affect the validity of the remaining portions of this Ordinance.

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

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

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247 **SECTION 7.** Adoption.

248 Passed on the first reading, this ___ day of _____, 2010.

249 Passed and adopted on the second reading, this ___ day of _____, 2010.

250

251

252

253

Mayor Roseann Minnet

254

255

256 Attest:

257

258 _____
Town Clerk, June White

259 (CORPORATE SEAL)

260

261 Approved as to form:

262

263 _____
Susan L. Trevarthen, Town Attorney

P&Z 6/16/10

Attachment 'A'

Chairman Oldaker asked for Attorney Trevarthen to present Agenda Item #4.

Attorney Trevarthen read the title to Ordinance amending Chapter 11 of the Code of Ordinances by establishing Article 1 or existing code provisions related to junks, wrecked, stolen or abandoned personal property; further establishing Article II "Abandoned Real Property" to provide for registration, monitoring and upkeep of maintenance of abandoned real property; providing for severability; providing for codification; and providing for an effective date.

Chairman Oldaker moved on to page 3 since there were no questions for pages 1 and 2. Chairman Oldaker began with asking how this Ordinance would be enforced. Chairman Oldaker commented that he is a director on two condominium complexes and he has not been able to find anyone to pay the maintenance. Chairman Oldaker stated that there are almost six thousand foreclosures a month and did not understand how this could be done within the timeframe indicated.

Mr. Bentley said this is an emerging field and the Town would do it with great vigor, professionalism, and dedication to protect the Town's neighborhoods. Mr. Bentley said that there has been pre-emptive legislation to try and standardize some of these regulations to the state and grant the financial institutions much longer periods of time to address these issues. At the same time, there was competing legislation to shorten the time. Mr. Bentley reiterated that the Town would put forth its best efforts to enforce this Ordinance.

Mr. Brandt said this Ordinance was a whole lot of law and would be very difficult to enforce and referred to the section that states **any mortgagee or property owner of record that has registered the property under this article must report any change of information contained in registration within 10 days of the change.** Mr. Brandt said that it takes the bank 9 months before they learn if someone is in default on the mortgage and said that the maintenance requirement in 11-23 is already in the Town codes and the main concern would be the single family homes. Mr. Brandt said that he liked the intent but did not see how it would work.

Mr. Hunsaker said it was his understanding that it was helpful to identify in the code the rules and regulations for abandoned properties and agreed that the entity holding the mortgage might not notify the Town. But if maintenance becomes a problem, then we would refer to the language in this Ordinance as a hammer once it is determined who is now handling the property. If a foreclosed property becomes a maintenance problem, notifying the owner would not accomplish anything and, in the process, Code Enforcement would identify through court records if it was in foreclosure and then there would be an additional hammer for enforcement. Mr. Hunsaker said that the intent of the Ordinance is a good intent in spite of the difficulties of enforcing the Ordinance.

Chairman Oldaker confirmed with Attorney Trevarthen that the end result would be placing a lien on the property.

Attorney Trevarthen addressed some of the comments that were previously made and said that versions of this Ordinance have been adopted by many other South Florida communities and if the board is interested in finding out whether it is effective, the board could instruct Staff to have this item come back to the board with information on the experience of those other communities. Attorney Trevarthen thought that other communities have had an Ordinance of this type in place for at least a year or more. Attorney Trevarthen said that if there is a fine running or if there is a monetary implication associated with it, she felt the bank would pay more attention. This would be something that could be verified by checking with other communities and if that would help the board to come to a decision on whether this would be a good idea for the Town, the board could certainly make that direction.

Mr. Brandt asked Attorney Trevarthen for direction on processing a motion to the Town Commission.

Attorney Trevarthen said that the Planning and Zoning Board is a review and recommend board and would not have the final say on any matters under the Town's code. So the purpose of the Planning and Zoning Board is to provide input from the community and from any personal experience that a board member might have in addressing these situations. This is an Ordinance that the Town Commission wanted to see go forward and the options available to the board are to pass the Ordinance on to the Town Commission with a recommendation for approval or a recommendation for denial and changes could be included with the approval. The final option for the board is to have the Ordinance come back to the board with further information that would allow the board to come to a better conclusion.

Chairman Oldaker said that the board could recommend that this move forward to the Town Commission but he just did not see how this could work for the Town.

Attorney Trevarthen said that the motion for that would be to make a motion to recommend denial of the Ordinance to the Town Commission. In other words, send the Town Commission a recommendation that this Ordinance not be adopted.

Ben Freeny made a motion, seconded by Eric Yankwitz, that this Ordinance (New Code Section 11-21 to address foreclosed and/or abandoned properties) be continued to the next Planning and Zoning meeting scheduled for July 21, 2010 and that Staff provide information from other

cities like Margate, Coral Springs, Hillsboro Beach, and Lighthouse Point to see how this type of Ordinance has operated for them. In a roll call vote, all voted in favor. The motion passes 5 -0.

TOWN OF LAUDERDALE-BY-THE-SEA

PLANNING AND ZONING REGULAR MEETING MINUTES

Town Commission Meeting Room

Wednesday, July 21, 2010

6:30 P.M.

I. CALL TO ORDER

Chairman Oldaker called the meeting to order at 6:30 p.m. Members present were Chairman Alfred Oldaker, Vice Chairman Yann Brandt, George Hunsaker and Ben Freeny. Also present were Jeff Bowman, Director of Development Services, Susan Trevarthen, Town Attorney, and Walter Keller, Planning Consultant. Board Secretary Colleen Tyrrell was present to record the minutes of the meeting.

II. PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was recited.

III. APPROVAL OF MINUTES

Regular Meeting of the Planning and Zoning Board – January 16, 2010

Board Secretary Colleen Tyrrell indicated there was a Scribner's error, and January was corrected to reflect June.

All voted in favor of approving the June 16, 2010, minutes as presented.

IV. NEW BUSINESS

Project:

Applicant:

Location:

Request:

(A) The Planning and Zoning Board to provide recommendations to the Town Commission to the proposed amendments to the Towns' Code of Ordinances and the Towns' Comprehensive Plan.

Item #1. Code Amendments to 30-313 (29) General Provisions to allow swimming pools in the front setbacks. (Jeff Bowman)

Item #2. New Code Section 11-21 to address foreclosed and/or abandoned properties. (Jeff Bowman)

Item #1. Amendments to the Towns' Comprehensive Plan to include revisions to address the Broward County Planning Council's Provisional Certification of the Future Land Use Element, the new Public School Facility Element. (Walter Keller)

Chairman Oldaker commented regarding Item #1: Code Amendments to 30-313 (29), mentioning Mr. Bowman supplied a number of diagrams in the backup for clarity.

Director of Development Services Jeff Bowman reviewed the details of Item #1, as set forth in the backup. He provided illustrations in order to elaborate on the matter of the site triangle based on the Board's discussion at its previous meeting at which he was not present.

Chairman Oldaker questioned as to the curb of the subject property and how did the five-foot setback follow the curb.

Chairman Oldaker moved the discussion to Item #2: the proposed new Code Section 11-21 pertaining to foreclosed and abandoned properties. He noted Mr. Bowman included in the backup a number of responses from various municipalities that implemented similar laws.

Mr. Bowman went on to review the backup information, noting at the previous meeting the Board requested staff gather information from five other cities; the code Town staff drafted mirrored that of Coral Springs and Margate, and their responses were favorable; Hillsborough and Lighthouse Pointe did not have an abandoned property ordinance, and Unincorporated Broward County had an ordinance that they gave a favorable response.

Attorney Trevarthen added she did some asking around at her firm to afford the Board other experiences. She discovered Marco Island and Miramar had not adopted such an ordinance, but Davie and Cooper City had and expressed their support for such an ordinance, giving very positive feedback. Cutler Bay in Dade County adopted a similar ordinance some two years ago and felt it had been very beneficial to their interest thus far.

Chairman Oldaker pointed out many of the municipalities mentioned were considerable larger than Lauderdale-By-The-Sea and had more staff to administer the code; however, being smaller, meant the number of foreclosures in the Town were fewer. He previously had a number of objections to the proposed ordinance, as he found it overwhelming, and foreclosures were prevalent throughout Broward County. Having thought on the matter further, it appeared to be something worth trying; if it worked well and staff was capable of executing the required work this was fine; but if it became burdensome, the situation could be addressed.

Mr. Hunsaker felt the proposed ordinance was overkill for the Lauderdale-By-The-Sea community, and he was unsure if what was contained in the subject ordinance could already be found in the existing Code. There were already code requirements in place for maintenance to property, and added language in the proposed ordinance just enabled the Town to deal better with mortgage holders. It gave him cause for concern when implementing such an ordinance required intensive manpower the Town did not have available; putting an ordinance on the books simply for the sake of doing so seemed poor government.

Vice Chairman Brandt questioned if Town staff, in recommending the approval of proposed ordinance, believed the Town had adequate staff to administer the ordinance.

Mr. Bowman replied Town staff felt sure there was adequate manpower to enforce the proposed ordinance, due to the number of occurrences being manageable by virtue of the Town's size.

Vice Chairman Brandt asked if a bank/lender failed to comply with the registration, notification or property management portions of the proposed ordinance, was there a time period associated with the failure to comply leading to the issuance of a second citation.

Mr. Bowman acknowledged the first violation carried a penalty of \$250; failure to comply within the allotted time period would cause other fines to apply to the property in violation. There was also the option of taking the matter to the Magistrate, and he could order a daily fine for each day the property remained out of compliance.

Vice Chairman Brandt inquired if the proposed ordinance would, in any way, limit the ability for someone experiencing a hardship, such as job loss, to enter into a short sale or would staff wait for a default scenario to unfold.

Mr. Bowman pointed out the proposed ordinance was geared toward the mortgage companies and lenders not the individual property owners. If the latter still occupied the property, Town staff tried to work with them to rectify the situation. The Town's goal was not to create revenue or hardships; this was just a tool to make banks responsible for the upkeep of specific properties.

Vice Chairman Brandt voiced his main concern as staff being able to follow through with ensuring the ordinance was complied with; he had no desire for the proposed ordinance becoming a negative code on a property owner trying to make things work. He preferred a situation whereby lenders felt there was a financial disincentive for them not to comply.

Mr. Bowman commented staff was receiving numerous calls from lending institutions as to whether the Town had an ordinance in place similar to that being proposed, as many cities had. Thus, they were being proactive calling Town staff to find out if Lauderdale-By-The-Sea had the same registration requirement as other cities.

Mr. Freeny sought clarification the proposed ordinance applied strictly to properties that were already in foreclosure, and the title had been taken back by the lenders.

Mr. Bowman replied the proposed ordinance applied to properties in the process of foreclosure and were vacant/abandoned for more than ten days.

Mr. Freeny wondered how many properties were currently in foreclosure in the Town.

Mr. Bowman, though unable to give an exact number, guessed it to be just a handful.

Chairman Oldaker noticed in the procedures portion of the proposed ordinance, the word "default" was used, and in the banking industry default referred to nonpayment after a specific period. Thus, the burden of compliance with the subject ordinance appeared to be mainly on the lender not on the homeowner/borrower.

Mr. Bowman pointed out, as long as the property was occupied, Town staff would continue to work with the occupants to cure or abate any violations on that property. If staff found the occupants unwilling to do anything to rectify the violation, the next step was to fine the bank, making them responsible for coming into compliance and/or paying the fine.

Chairman Oldaker commented if staff felt they had sufficient manpower to enforce the proposed ordinance, then it should be part of the City's Code, as such occurrences were a sign of the times and it could not be ignored.

Town Attorney Trevarthen noticed Cutler Bay indicated they utilized a third party vendor for the administrative burden, though they did not specify which entity it was. Thus, if administering the proposed ordinance became burdensome, staff could contact Cutler Bay to find out the details on using a third party vendor.

Vice Chairman Brandt discussed the use of the word "default" in the proposed ordinance, remarking he did not find a clear definition of what was meant by default in relation to the ordinance, as it appeared staff intended for the definition to mean something related to lis pendens or some type of judicial action, as opposed to not paying one's mortgage within the time period allotted. He believed there was a need to more clearly define "default" in the language of the ordinance.

Mr. Bowman reiterated if the property was occupied and the occupants were willing to abate any violations, it would be a nonissue.

Vice Chairman Brandt was concerned with the possible negative effect the proposed ordinance might create for the lender a homeowner was trying to work with.

Town Attorney Trevarthen indicated the main point was the subject ordinance was not written from the above perspective alluded to by Mr. Brandt, rather it was written from the perspective of protecting the neighborhood impacted by what took place on a certain property during a dispute between a lender and a borrower. She understood the suggestion being made, though the format of the proposed ordinance was consistent with how it was being done in other cities. If a homeowner was disclaiming all responsibility for a property, allowing it to fall into disrepair, this was the reason for devising the subject ordinance to protect surrounding neighbors that would be bearing the brunt of the problems. She noted it was a policy choice and the Board should consider whether they wished to recommend changes.

Vice Chairman Brandt thought the proposed ordinance was a big policy decision beyond the scope of the Board without a public hearing, and it might be worth getting public feedback from the Commission prior to making any Board decision.

Chairman Oldaker stated Mr. Bowman mentioned lenders were well aware of cities enacting like ordinances as a normal process, and the verbiage seemed similar to that of other cities that implemented such ordinances. He questioned if there was anything unique in the Lauderdale-By-The-Sea situation.

Mr. Bowman said there were no significant differences.

Chairman Oldaker agreed with Ms. Trevarthen as to the point of the proposed ordinance, and the Town had to start somewhere. As to the use of the word "default", the norm was 30 days after the first missed payment, and it was approximately 60 days when the whole process began, and it was subject to how the particular lender wished to proceed with the specific property. It was important for the Town to have an ordinance in place that clearly showed when action would take place in the particular process, whether there was a short sale, foreclosure, etc. He opined, as this was a somewhat generic ordinance utilized by other cities and they were having a positive response, the Board should send the matter to the Commission for a final decision.

Mr. Hunsaker believed, in reality, the ordinance went into effect when the property was not being taken care of, whether the occupants were in default or not. Registration was only required if there was a foreclosure and the Town needed to be alerted to the fact that the bank was assuming responsibility for the property's maintenance.

Vice Chairman Brandt pointed out if the property went into default, the bank had to register with the Town and was obligated to inspect the property once a month.

Town Attorney Trevarthen answered: correct. In a practical sense in terms of true code fines and problems with the Town, no action would be taken until there was a violation on the property.

Chairman Oldaker requested a motion to move on the item, whether approving the proposed ordinance and recommending it be sent to the Commission for adoption, or not to approve the ordinance.

Mr. Freeny made a motion to approve the new Code Section 11-21, seconded by Mr. Hunsaker, and to forward the ordinance to the Town Commission for approval. Chairman Oldaker received no further discussion and asked for roll call vote.

In a roll call vote, there was a vote of 3 - 1 in favor of sending the Code Amendment for new code Section 11-21 to address foreclosed and/or abandoned properties to the Town Commission with the Board's recommendation to pass as presented. The motion carried 3 - 1; Vice Chairman Brandt voted no.