

TOWN OF LAUDERDALE-BY-THE-SEA
PLANNING AND ZONING
REGULAR MEETING MINUTES
Town Commission Meeting Room
Wednesday, December 15, 2010
6:30 P.M.

I. CALL TO ORDER

Vice Chair Brandt called the meeting to order at 6:30 P.M. Members present were Vice Chair Yann Brandt, Ben Freaney, Lawrence Wick and First Alternate Eric Yankwitt. Also present were Jeff Bowman, Director of Development Services, and Town Attorney Kathryn Mehaffey. 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.

Vice Chair Brandt acknowledged the absence of Chairman Oldaker due to illness, stating he would be chairing both the regular meeting and the subsequent workshop of the Planning & Zoning Board.

III. APPROVAL OF MINUTES

Regular Meeting of the Planning and Zoning (P&Z) Board – September 15, 2010, and November 17, 2010

Mr. Wick made a motion to approve the minutes of September 15, 2010, and November 17, 2010, as presented, seconded by Mr. Yankwitt; In a roll call vote, the motion passed 4 – 0.

IV. PUBLIC COMMENT

Vice Chair Brandt noted there were no members of the public present at the meeting to comment.

V. NEW BUSINESS

Project:

Applicant:

Location:

Request:

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

Item #1. Proposed changes to the required parking regulations and general public parking requirements

Director of Development Services Jeff Bowman reviewed the backup information pertaining to the subject item, noting the Town Commission directed the P&Z Board to review the changes before they were sent to the Commission for a first reading.

Vice Chair Brandt reminded the Board the proposed changes had been discussed at two Commission roundtables and a Commission meeting since the last P&Z Board meeting.

Mr. Bowman indicated the only changes being considered were the ones in red; the rest of the document would be reviewed at the P&Z Board workshop taking place after the present meeting.

Mr. Yankwitt commented the question that came to mind as Mr. Bowman reviewed item J was how the report would be done: how it would be reconciled with any Master Plan; how it would be worked going forward; and the results of the interim period, how they would be measured. He wished to see some sort of verbiage addressing these concerns other than what was contained in the second number where the annual report merely said "effectiveness" and "Impact."

Mr. Bowman believed the current format was how the changes would be drafted.

Mr. Yankwitt inquired if the report would be prepared on a month-to-month basis, on an annual basis, year-to-date, etc.

Vice Chair Brandt thought it would be an annual report, and the Commission wished to understand how many parking spots were being waived in the Suspension Program; that is, what the impact would be to the Town's parking system.

Mr. Yankwitt remarked when all the data was grouped at one time and the data compared to data of the previous year or the year to come, it seemed to get "washed through" during the season. He thought there was more of a challenge during winter months than in summer months; this was the impact study in which he was more interested.

Vice Chair Brandt said the Board should make the recommendation for a change that took into account the peak and off peak seasons.

Mr. Freney wished in ensuing years for the Board to measure the progress of the process to facilitate making comparisons from year to year and month to month. If the definitions of the parameter were insufficiently clear and detailed, the report would serve no informational purpose. He desired a financial value and comparison made of the waived parking spots based on the Town's existing parking program. The parking facilities of the town belonged to the taxpayers, and they should be informed if the Town would be losing or gaining revenue, as, in the end, the taxpayers would bear the brunt of any cost. He felt another concern he raised the previous month was related to what was supporting the subject program, and he spoke to a number of restaurateurs and Town staff over the past month to get their thoughts and input. Staff indicated over the past month there had been considerable discussion at Commission meetings and roundtables, yet he witnessed no substantive data produced to date, either by the Town's administration, restaurateurs avoiding Lauderdale-By-the-Sea, the Commission or the P&Z Board. The Board was not basing its decisions on any facts and this was of great concern, as was the impact on taxpayers. He acknowledged the Town's parking system was running in the red and this needed to be addressed, but it was important to determine how supporting the proposed changes could impact the Town's parking fund. No numbers or information had been produced and he needed to see such data before making any recommendation to the Commission, though he acknowledged the Commission already began debating the topic of discussion, as was their prerogative.

Vice Chair Brandt pointed out the proposed changes currently before the Board had been handed down by the Commission, and it was on this language the present meeting sought to gain Board input and recommendations.

Mr. Freney inquired of Mr. Bowman if he had been supplied with any form of backup that supported the move to set up a permanent or a two- or three-year trial period exemption and the financial impact on the Town, and if there was any idea as to the type of restaurant vendors that could occupy the space.

Mr. Bowman recalled during the Commission workshop or roundtable there was discussion about the number of empty storefronts, hence the reason for the Commission seeking ways to fill those empty spaces.

Mr. Wick questioned when it became required for the Town to give up its parking and seek to make money to fill storefronts owned by private individuals. He wished to know if staff had any data on any Broward municipalities that exempted all restaurants from parking requirements.

Mr. Bowman replied staff had yet to gather such statistics.

Mr. Wick believed the Board asked staff to investigate such occurrences in Broward County at its last meeting. It bothered him that, rather than have the Town's Chamber of Commerce out to attract businesses to the Town and working with the Town, the Town seemed to be doing the reverse. The Town appeared to be giving "everything" away before worrying about anything else; it was unfair to the citizens, and he wished to know what the cost would be to the Town if the parking suspension program were undertaken, and was it fair to tell established restaurants, such as Blue Moon and Benihana they had to continue paying for parking spaces. He believed this to be anticompetitive.

Mr. Bowman explained, based on the present meeting's agenda, he was unprepared to answer such inquiries. His intended focus was on answering technical questions.

Mr. Wick asked if the Commission agreed at the previous night's meeting to suspend requiring 101 to have parking spaces.

Mr. Bowman affirmed there was some discussion about 101.

Mr. Wick believed there was discussion to reduce the fee from \$81 to \$20 or to \$12.50.

Vice Chair Brandt mentioned, as the previous night's meeting was a Commission roundtable discussion, the matter ended at the discussion point with a planned first reading with public comment at the next regular Commission meeting on January 11, 2011.

Town Attorney Mehaffey addressed the point of discussion stating, generally, there were issues and situations where the plan was to make the action retroactive; however, in the present situation the recommendation was not to make the action retroactive or selectively retroactive; there were probably other ways for that situation to be addressed.

Mr. Wick wondered if this might give undue financial advantage to restaurants coming into the Town in light of the fact that existing larger restaurants had done a good job of working to develop the Town.

Town Attorney Mehaffey affirmed the changes would create different situations for the restaurants.

Vice Chair Brandt sought to refocus the discussion on the actual language of the proposed changes under consideration, as the Commission's discussion appeared to be centered around receiving future payments by private businesses currently satisfying parking exemptions by renting spots from the Town; it was established at the Board's last meeting there were only two such businesses. The focus of the present discussion should be on the structural language of the proposed changes and related questions to staff.

Mr. Wick thought the issue of possibly creating an unfair advantage was a matter the Board should bring to the Commission's attention in its written recommendations.

Vice Chair Brandt observed, with regard to striking out line item J of bars, beer gardens, nightclubs, he did not see this as an addition on any other line item; he wondered if staff was adequately monitoring parking regulations for those businesses as well, or had those uses been eliminated from the Town's business use code.

Mr. Bowman responded they were never a part of the business use code, so they served no purpose.

Mr. Wick felt it was unacceptable to go to zero, suggesting everyone be given the same advantage and, therefore, strike J in its entirety and direct staff to come back with corrective ideas. He did not believe the Board was prepared to pass the proposed changes and recommend their approval by the Commission. He understood Board members were appointed by different Commissioners, but if a Board member disagreed with a proposed change, they should discuss the matter with their appointing Commissioner; he had done so previously and was told the Commission desired individuals on the Board willing to think on their feet and help the Commission. He sought feedback from the Board to either strike J completely and have staff redraft the language, or send J to the Commission with a no-confidence vote.

Mr. Yankwitt questioned if there was any correlation to the provision in J with the Town's Master Plan or the Master Plan Steering Committee. It seemed premature to try to entice existing business owners to revitalize or try to attract new businesses while not knowing what the parking situation would be in two years or until the Master Plan was revised and completed.

Mr. Freeney pointed out one of the issues he had with item J was whether businesses would be grandfathered in. If a business opened in Lauderdale-By-The-Sea, once the period of time ended, there should be no issue with grandfathering them in, and such language could be reflected in the proposed changes. He said most of the changes in the subject ordinance were housekeeping changes. Item J stood out from the other changes, as it proposed something new, and he too supported striking J and voting to send the rest of the changes to the Commission for a vote.

Vice Chair Brandt wished to see if the proposed changes moved forward as written, the required application should become an addendum to the business use license request, making it one application as a whole.

Town Attorney Mehaffey stated the application could be included procedurally with the Town, and staff would handle it together in terms of handing business owners the documents at the same time. She did not recommend making the application part of the same application document type and procedure; she was confident in Town staff having the ability to tie the timing of that dispersion together.

Vice Chair Brandt disagreed with the application as a whole but, if there were an application, he preferred to see it not be as big of a barrier to opening the business as it was. The way the subject matter proceeded was with a huge lack of foresight by those who did not support the full exemption; this was a full exemption that was for a three-year period, and a full exemption as a whole would have any time frame, as no government was permanent. Thus, the amount of time the Town administration spent fighting the subject matter would be better served doing something more beneficial in the grand scheme of things.

Assistant Town Manager Bud Bentley indicated he was unaware of any staff efforts to fight the subject program, as they received direction from the Commission at a workshop and, at their request, a week later an item was placed on the Commission agenda. He explained to the Commission the item was placed on the agenda as thought out as it was possible within the week allowed, and it was done within the parameters of what staff felt was the Commission's voiced desires. The Commission's direction to staff at the workshop indicated there would be a program, and the word "exemption" was consistently use; staff focused on how long the program would last and how it would end. He noted the ending of a program that was described to staff as temporary, and parking regulations would be reinstated when there was a parking problem; the subject program was meant as a stimulus program and led staff to believe it was for an indefinite period of time. The actual program by staff quickly focused on how the program would come to an end, and how the business community would be informed of that, and the property rights would be vested with the property and how they would continue. Mr. Bentley commented that staff's recommendations were accepted by the Commission, and he took some umbrage to the comments that staff and the Town administration was not in support of the changes; staff was given directions by the Commission and carried them out to the best of their ability.

Vice Chair Brandt noted at the first Commission roundtable there was clear direction for staff to proceed with formulating an exemption and a suspension program came back; this was where his abovementioned comments were leading. There appeared to be some consensus of support from the Board and he requested a motion.

Mr. Wick wished to make a motion to amend item J, striking all additions and deletions shown in red, leaving the parking requirements status quo keeping one parking space for each 50 square feet of floor area in rooms for customer service.

Mr. Wick made a motion to amend item J as discussed above, seconded by Mr. Freeney. In a roll call vote, the motion passed 3 – 1.

Mr. Wick made a motion to approve the subject changes as reflected in the backup and have them go forward to the Commission, seconded by Mr. Freeney. In a roll call vote, the motion passed 3 – 1.

VI. OLD BUSINESS

None

VII. UPDATES/BOARD MEMBER COMMENTS

Mr. Wick thanked everyone for contributing toys to the toy boxes placed around the Town. He commended the 200 plus people who turned out and had their picture taken with Santa the previous Saturday at Marie White's Santa-By-The-Sea; it was by far the best one the Town hosted.

Mr. Yankwitt thanked everyone for watching the present meeting and wished them a happy holiday season and a prosperous New Year.

Mr. Freeney wished everyone happy holidays, though he wished for a better attendance at the meeting. From his standpoint, he was all about increasing the potential for business in the community, as it was a vital part of the community's life along with the residents. In no way was he against any growth or new business coming to the Town. He believed the Board was originally given the task of revising the Town's existing parking code with a view to modernizing it and making it more business friendly, and more work needed to be done in this regard as a whole and not on a piecemeal basis. It all should be about the Town's Master Plan, and the items should not be piecemealed, as this was not according to the Plan. He looked forward to the Commission continuing their debate and hoped someone would come forward with some substantive information to support the decision-making process pertaining to the Town's entire parking system.

Vice Chair Brandt thanked staff for all the work they had done in the present year to help the Board in its decision making in an effort to provide the Commission with the best advice possible. As an advisory body for the Town's Land Development Code and items such as the subject of discussion, the Board saw things individually, such as the time code, the parking code, etc. The P&Z Board was not a part of the Master Plan Steering Committee, though there might be a way to merge some of the views on a long term basis. As a whole, the Board examined things that were in the best interest of the Code, taking direction from the Commission one-by-one or as a body. He was disappointed with the direction of the Town's parking code, but this was part of the governing system. The lesson learnt was that all the people fighting for a decrease in parking regulations for about 15 years

should have been present at the meeting, including nongovernmental organizations, such as the Chamber of Commerce, as well as other businesses in support of the changes. He thought the Commission was flexible, and if people who were opposed to the changes spoke with some of the Commissioners things would have turned out differently. For the new year, he encouraged everyone that could benefit from the changes or wished to see the Town prosper in a particular way they favored to get involved. He wished everyone Seasons Greetings and a Happy New Year; he looked forward to working with them in 2011.

VII. ADJOURNMENT

There being no further business to discuss, Mr. Wick made a motion to adjourn the meeting at 7:20 p.m., December 15, 2010.

ATTEST:

Chairman Alfred Oldaker

Date Accepted: _____

Colleen Tyrrell, Board Secretary
