

TOWN OF PALM BEACH

Office of The Town Clerk

ORDINANCES, RULES AND STANDARDS COMMITTEE HELD ON AUGUST 1, 2007

I. CALL TO ORDER AND ROLL CALL

The Ordinances, Rules and Standards Committee Meeting was called to order on Wednesday, August 1, 2007, at 9:00 a.m., in the Town Council Chambers. On roll call, Chair Gail Coniglio and Committee Member Richard Kleid were found to be present.

Others present for all or a portion of the meeting were:

Council Member William J. Brooks
Town Attorney John C. Randolph
Deputy Town Manager Thomas G. Bradford
Kirk Blouin, Police Department Support Services Captain
Paul Brazil - Public Works Director
Veronica Close - Director of Planning, Zoning and Building
Charles Langley - Public Works Assistant Director
Gary Sallenbach - Support Services Major, Police
Jeff Taylor, Acting Building Official
Diane Kassover, Deputy Town Clerk

II. APPROVAL OF AGENDA

The Agenda was approved as printed.

III. CONSTRUCTION RELATED ISSUES

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1. **Construction Completion Times, Reactivation Fees and Fines**

Director of Planning, Zoning and Building Department Veronica Close referred to her memorandum to members of the Ordinances, Rules and Standards (ORS) Committee dated July 25, 2007, and included in the backup material, to discuss construction related matters.

Ms. Close advised that staff had reviewed Chapter 18 of the Town's Code of Ordinances, and was proposing the following modifications to its original proposals regarding construction activity and parking. She noted that staff from the Public Works Department, the Planning, Zoning and Building (PZ&B) Department and the Police Department met with contractors that work in the Town regarding these proposals. She advised that Town Council Member Coniglio was present at that meeting.

Ms. Close commented on the Report on the Synopsis of Construction Procedures and the Summary of Major Changes to Construction Permit Procedures prepared by the Planning, Zoning, and Building (PZ&B) Department, also included in the backup, as follows:

Item a) Modify the amount of time for construction and create additional categories by square footage. (Ordinance change)

• **Proposed Construction Time Limits**

Projects up to 3,999'	- proposed 16 months
Projects 4000' - 5,999'	- proposed 24 months
Projects 6,000' - 9,999'	- proposed 30 months
Projects 10,000' - 19,999'	- proposed 36 months
Projects 20,000' - 39,999'	- proposed 42 months
Projects 40,000' and larger	- to be determined by Town Council prior to permit issuance

Ms. Close advised that the contractors had indicated that it would be very helpful if PZ&B could assist them in notifying the owners that the time limits were hard time limits, and that both owners and contractors would have to work together to meet them. She noted that staff had informed the contractors that PZ&B would be willing to prepare a public release to inform everyone of the time limits, and what the ramifications would be for not meeting those time limits in order to assist everyone in working together to finish projects on time.

In response to Committee Member Kleid, Ms. Close advised that the proposed construction time limits did not differ, and were almost identical, to what was discussed during the Ordinances, Rules and Standards (ORS) Committee Meeting held on April 30th. She

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explained that this recommendation had been made to the Town Council through a report, and staff had requested that they be able to return to the Ordinances, Rules and Standards Committee with some final recommendations.

Committee Member Kleid noted that no action had been taken by ORS on this particular provision, but it had been reported as a recommendation of the Committee.

In response to Chair Coniglio and Committee Member Kleid, Ms. Close commented that PZ&B anticipated instituting the proposed time line as soon as the Ordinance was passed. She noted that staff was making a number of other changes to Chapter 18 of the Code of Ordinances. The Planning, Zoning and Building Department was requesting that they be allowed to have at least two months to work with the Town Attorney and make any changes recommended by ORS and approved by the Town Council. She explained that there would be two readings of the Ordinance: the first in October and the second in November.

Chair Coniglio recommended that the homeowners should be included in the process.

Item b) Increase the penalty for working without a permit. (Ordinance change)

Ms. Close explained that this item was related to contractors starting a project before receiving a permit. She noted that currently the Town had the ability to charge a double fee or 100% over the building permit fee for working without a permit. She advised that staff recommended that fee be increased to 300% in addition to the building permit fee. The fee would be quadrupled for beginning work without a permit. She noted that the fee would be for significant violations, and that in some instances, the imposition of the fee might not be warranted.

In response to Committee Member Kleid, Ms. Close explained that a significant violation would be electrical or plumbing work that was being done in a condominium, because it would have significant ramifications to other residents in that condominium. She advised that if a minor project was started without a permit, and the owner did not fully understand that a contractor was needed, it would not be considered a significant violation.

In response to Chair Coniglio, Ms. Close advised that an example of a minor project was a condominium unit owner knocking out a wall. She noted that there were situations where staff believed there should be some latitude as far as quadrupling the fee.

In response to Committee Member Kleid, Ms. Close stated that a permit for knocking down a wall would be required if it affected certain other systems.

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Committee Member Kleid expressed concern over staff drawing distinctions. He stated that either a permit was required or it was not.

Acting Building Official Jeff Taylor explained that in an instance where an owner might not realize a permit was required, such as changing out kitchen cabinets and the ramifications related to the electrical and plumbing systems for such a project, staff would then guide the owner to obtain permits and contracts.

Discussion ensued and Chair Coniglio noted that she believed that with staff's expertise and experience, discretion could be left up to staff.

Item c) Restrict ability to work in Town for excessive violations. (Ordinance change)

Ms. Close noted that the ability to restrict work in the Town for excessive violations had been reviewed by staff, and it was determined that only the State agency regulating contractor certification could affect the ability of a contractor to work. Staff recommended that no action be taken until and unless egregious violations were continuously found. She noted that staff would then like the opportunity to come back to address instituting new mechanisms, which might include the "3 strike rule."

Ms. Close noted that staff was exploring a mechanism for notifying owners when significant problems with contractors were found. She advised that it was a little more difficult at present to do so, but once the new software system was in place, staff believed it could be done.

Chair Coniglio commented that she believed it was wise to do that coupled with the notices to homeowners regarding the rules on time frames for construction.

Item d) Revoke or terminate the permit and required the applicant to reapply, and pay additional fees in accordance with construction value of remaining work for major construction projects. (Administrative or Ordinance change)

Ms. Close advised that in consideration of increasing time limits, PZ&B proposed much more significant penalties for not meeting those time limits. She noted that projects were divided into the following two categories and presented a preliminary flow chart to review same. Ms. Close noted that these projects were for major renovations, remodels and new construction.

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1. Projects Requesting Town Council Approval of Extension Prior to Expiration of Time Limits

- Contractor could request extension of the permit from the Town Council based on the Building Officials' recommendation of time.
- If an additional extension was requested, the process would repeat itself.
- If an extension was not asked for and the permit was ready to expire or the Town Council had considered a request for an extension and denied the contractor's request, a daily penalty fee would start at \$.10/per square foot, minimum \$500 per day. (Staff modified its previous recommendation of using standard fine amounts to the above system in response to a suggested change by the contractors.)
- The permit would continue until the project was completed at that fine per day. The fine would have to be paid in order for the contractor to receive a Certificate of Occupancy; or
- If they vacated the project, code enforcement for demolition would be instituted.

Town Attorney Randolph advised that he had concerns regarding the amount of the fines and would have to review same to determine if they were allowed under the State system.

2. Projects Not Requesting Town Council Approval Prior to Expiration of Time Limits

Ms. Close presented a flow chart to explain that once the Town's new computer system was in place the following would occur:

- Expiration Notice would be issued - 6 month warning notice.
- Time Expired/Permit Expired and job would stop.
- If this was a first offense and the applicant submits a permit application within 6 months:
 - ▶ Permit would be reactivated
 - Pay fee on value of all unfinished work
 - Expires on Building Official's approved completion date
- If this was a first offense and the applicant submits a permit application after 6 months:
 - ▶ Permit would be reactivated
 - Meet all new codes
 - Pay fee on value of all unfinished work
 - New development review approvals required
 - Expires on Building Official's approved completion date

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In response to Chair Coniglio, Ms. Close commented on the following:

- The 6-month notification would be sent to both the homeowner and the contractor.
- Staff reviewed the notification to the surrounding neighbors for time extensions and determined that a 25-day notice might be better than 10 days. Staff continued to review same to determine how it fit in with notice requirements and Town Council Meetings. If it had to come before the Town Council, neighbors would be provided notice and staff was considering a 25-day notice.

Discussion ensued relative to the fairness of violation fee assessments relative to small and large projects. Ms. Close responded that Chair Coniglio was correct and the State did supercede Town assessments. Staff needed to sit down with Town Attorney Randolph to work on the final details before it came back to the Town Council.

In response to Committee Member Kleid, Acting Building Official Jeff Taylor clarified that staff was looking at the fee, the minimum \$500 and the \$.10 per square foot as a condition that would be agreed to by the owner. He explained that it would be an agreement, not necessarily a penalty, and it would be a condition that would have to be agreed upon in order to continue, but it would not be a penalty. Staff arrived at the \$500 figure because they wanted a fee structure with some punch to it, and it would be for the 3,000' to 5,000' projects.

In response to Attorney Randolph, Ms. Close responded that during discussions with the contractors, they had suggested some type of a fine structure based on a different mechanism such as square footage. She noted that was the reason staff structured it the way they did. The contractors had also indicated to staff, at that meeting, that in general, the time limits the Town had provided to them seemed reasonable; and therefore, if they were working diligently with cooperative owners, they should be able to meet those time limits and not be faced with fines.

Item e) Restrict the ability of a contractor to get permits on a property if the contractor is in violation on another property

Ms. Close advised that this concept had been considered at the last ORS meeting, and staff had been advised not to pursue it at the present time. No further discussion regarding this item took place.

Motion made by Committee Member Kleid to recommend to the Town Council the following Synopsis of Construction Procedures items:

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- **Item a)** **Modify the amount of time allowed for construction and create additional categories by square footage. (Ordinance change)**

Recommended.
- **Item b)** **Increase the penalty for working without a permit. (Ordinance change)**

Recommended.
- **Item c)** **Restrict ability to work in Town for excessive violations. (Ordinance change)**

Not Recommended.
- **Item d)** **Revoke or terminate the permit and require the applicant to reapply, and pay additional fees in accordance with construction value of remaining work for major construction projects. (Administrative or Ordinance change)**

Recommended with the conditions:

1. **That the notification requirements under Category #2 would be reviewed by staff and legal counsel. It was clarified that this was not a penalty but merely a condition of obtaining the permit.**
2. **That neighbors within a 300' perimeter be notified of the fact that an extension had been granted, regardless of who agreed to the extension, whether it be the Town Council or a Building Official. [Committee Member Kleid commented that the intent was to notify neighbors prior to awarding the extension.]**

Chair Coniglio seconded the motion, as amended. On roll call, the motion carried unanimously.

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- **Item e) Restrict the ability of a contractor to get permits on a property if the contractor is in violation on another property.**

Not Recommended.

- **Item f) Parking Issues and the “3 strike rule”**

Committee Member Kleid made a motion to adopt the concept set forth in Item (f) Parking issues and the “3 strike rule”; and that staff would return to ORS with a concrete specified plan, which was subject to approval by legal counsel. [Motion then amended related to Item (f) to include that the dollar amounts of the fines be studied further.] The amended motion was seconded by Chair Coniglio. On roll call, the motion passed unanimously. *[Please note: Detailed discussion related to Item (f), is included below. Motion was made after discussion took place.]*

Ms. Close explained that presently they were very limited in their ability to notify owners, not the contractors as much, but after installation of the new software system, staff would send out immediate notice to all owners and contractors for all projects with at least 12 months remaining on new time limits. She noted that if a project had less than 12 months left, they would receive a free pass using the existing system and would have to appear before the Code Enforcement Board; but if a project had more than 12 months left, they fell under the new system and staff would proceed accordingly.

Ms. Marix questioned the action taken by the Committee, noting that neighbors would be notified after the granting of a time extension. She questioned whether it would be fairer to notify the neighbors before granting a time extension in order that the neighbors could bring forth any reasons they might have as to why the extension should not be granted.

Chair Coniglio responded to Ms. Marix that she was in full agreement, and believed that the intent was that the neighbors would be notified prior to the granting of an extension.

In response to Ms. Marix’s concern regarding the time frame on construction work at 1102 North Ocean Boulevard, Ms. Close advised that she would look into her concerns.

Discussion ensued regarding the time limits on the work being done at 1102 North Ocean Boulevard, and it was determined that the project was more than 9,000 square feet, which allowed close to 36 months. The project started in 2005 and should be done in 2008.

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Robert Moore, 420 Sante Fe Road, West Palm Beach, commented on the following:

- The property at 1102 North County Road was a landmarked property. He noted that, at that time, he had been Director of Planning, Zoning and Building and that it had taken some time to get approvals from the Landmarks Commission and from the Town Council for variances.
- Mrs. Marix originally introduced the concept of placing time limits on projects when she was Mayor, and staff did their best then to institute those time limits, which were thought to be effective, at that point and time. Those time limits had never been adjusted and had proven, through the years, not to be working too satisfactorily for a number of reasons.
- He suggested very strongly that the adjustments proposed today would reduce 75% of the Code Enforcement Board's problems relative to completion times on projects.
- State law stated that permits belonged to the contractor as a representative of the owner, and that there needed to be a way to tie the owner into the process in order that there were incentives for them to make the changes discussed today.
- He represented Jim Woolems, Woolems, Inc., and noted that contractors did not like to appear before the Code Enforcement Board as it hurt their reputations.
- He applauded Jeff Taylor and Ms. Close for putting forth the effort of meeting with the contractors.

Chair Coniglio questioned Attorney Randolph as to whether the motion had tied it to the homeowners. She noted that she had hoped by that notification, homeowners would be informed and would be part of the process.

Attorney Randolph responded that the motion had not included the homeowners, but dealt with contractors and applications. He advised that this issue would have to be studied. He suggested that if an extension was granted, a condition of that extension would be that the owner and contractor signed a Construction Agreement.

Committee Member Kleid noted that he believed part of the motion included that when a permit was issued, the construction periods and the ramifications of not adhering to the schedule would be provided to both the contractor and the owner. He stated that no action would be taken relative to Mr. Moore's recommendation to tie into the process both the owner and the contractor until Attorney Randolph came back to the Committee with an opinion as to whether or not this could be done legally.

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After further discussion, Attorney Randolph noted that if the Committee wanted to clarify a previous motion, it could certainly do so, but at this point, the request was that the issue of notification to owner and the responsibility of an owner would be studied further.

Committee Member Kleid advised that the Committee had agreed to the notification to owner, but they had not agreed on anything regarding the responsibility of the owner, and that was the part, the Committee was going to ask Mr. Randolph to look into - as to whether or not the owner would be equally responsible along with the contractor.

In response to Attorney Randolph, Committee Member Kleid clarified that the Committee had agreed that a notice would be sent to both the contractor and the owner as to the procedures, time limits and responsibilities when a permit was to be issued.

Chair Coniglio stated that they would also add the layer of a notification to a homeowner in the event that the project had not been completed, and a time extension was granted. She advised that if Attorney Randolph's legal opinion was that he believed the homeowner was tied to a permit by having a contractor as an agent, that would be fine, but she noted that she would be more comfortable in knowing that the homeowner was tied to the same deal as the contractor.

The Committee requested Attorney Randolph provide legal counsel relative to a homeowner being tied into the same type of deal that the contractor had.

Harry Ackerman, outside consultant, commented in opposition to the 300% fine that was being proposed as he believed there needed to be some discretion especially with regard to the size of the projects.

In response to Mr. Ackerman, Chair Coniglio advised that the 300% related to contractors working without a permit.

In response to Mr. Ackerman's concerns, Committee Member Kleid clarified that the motion had left the discretion for non-substantial alterations up to PZ&B, except where plumbing and electrical work was involved, because they could have ramifications to neighbors, particularly in condominiums.

Mr. Ackerman commented that he wanted to ensure that there was a good bit of latitude in place, because of the cost of construction projects, and for a contractor to be punished with that type of fee could be onerous.

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2. **Parking Control at Construction Job Sites**

Item f) Parking issues and the “3 strike rule”

 Mr. Bradford commented that construction parking was one of the biggest problems the Town faced. He explained that as part of the review of the Townwide Traffic and Parking Improvement Plan over the last seven months, he had recommended a modified version of the so-called “3 strike rule” for penalties and enforcement of the rules associated with construction parking. He explained that based on input he had received from staff, a more simplified method for enforcement would be a more effective enforcement mechanism, and in lieu of the “3 strike rule,” there would be the utilization of a Construction Parking Task Force composed of Police Officers, Code Enforcement Officers, Public Works Right-of-Way Inspectors, and Planning, Zoning and Building (PZ&B) Inspectors.

 Mr. Bradford presented a Construction Parking Task Force Flow Chart to discuss the responsibilities of the Task Force. He commented on the following:

- **Construction Job Site**
 - **Worker Parking Violations**
 - ▶ \$35 per violation
 - ▶ Boot the vehicle after 3 unpaid violations
 - **Contractor Parking Violations**
 - ▶ First Fine - \$250
 - ▶ Second Fine - \$500
 - ▶ Third Fine - \$750
 - ▶ Fourth and All Additional Fines - \$1,000

 Mr. Bradford explained that this proposal was subject to Town Attorney Randolph’s review of the details and legality of same.

 In response to Committee Member Kleid, Mr. Bradford explained how he believed the proposed Task Force would operate. He advised that the activities of all three departments, Public Works, Police and PZ&B, needed to be coordinated and training provided. He believed that Captain Blouin would probably be the coordinator of the Task Force, because in all likelihood, the Police Department would end up being the only party able to write tickets for the vehicles in the street under a Code other than the Right-of-Way Manual. He noted that this was all subject to change because the proposal had not been taken that far.

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Mr. Bradford advised that if the proposal was adopted, the procedure would be codified in the Right-of-Way Manual and in the Town's Code of Ordinances. He explained that currently, if the problem was a Right-of-Way parking violation under the Right-of-Way Manual, the Public Works Right-of-Way Inspector could issue a citation or a violation on the spot, that would be paid by the contractor, which he believed was \$75. He explained that a Code Enforcement Officer, if trained, would be capable of enforcing the provisions of the Right-of-Way Manual as well.

In response to Mr. Bradford, Captain Kirk Blouin, Police Department Support Services, noted that a Parking Enforcement Officer would have to attend a 24-hour course in Parking Enforcement to be able to legally write a ticket in the same way as a Police Officer. He noted that could easily be achieved.

In response to Chair Coniglio, Captain Blouin advised that Police Officers, Right-of-Way Inspectors and PZ&B Inspectors would all have the same ability to issue a regular parking ticket or write one under the Right-of-Way Manual. He noted that the fine for a Right-of-Way parking ticket would be \$250.

In response to Committee Member Kleid who questioned why the system was not currently working, Mr. Bradford noted that one of the pieces that was missing today was that the Police Officers, Right-of-Way Inspectors and PZ&B Inspectors had not been cross-trained or received the certification that allowed them to write all of the tickets that they would be capable of issuing.

Discussion ensued and Committee Member Kleid stated that he understood the first function was obviously to fight or prevent crime. He advised that he always believed that the Patrol Officers probably rode up any given street in the Town numerous times per day, and that they were the best eyes and ears of the Town. He explained that was one of the reasons Code Enforcement functions were moved over to the Police Department. He advised that if it was decided to go with the Task Force, they would be provided the same direction. He noted that the major focus had to be on the Police to issue the fines and citations and not expect Public Works, Code Enforcement or the other individuals concerned to do so.

Captain Blouin advised that there were some details that need to be worked out, and it was an issue that the Police Department had been working closely with Public Works on for several months. He noted that in addition to the changes that had to be made to the Right-of-Way Manual, one of the problems for the Police Department was in writing Right-of-Way violations. He explained that was the reason there had to be a coordinated effort, because Public Works was more familiar with the contractors and some of the particular issues regarding a construction site, and sometimes special agreements were made, which Public Works would be privy to and the Police Department would not.

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Gary Sallenbach, Police Support Services Major noted that the issue here was a two-prong approach. The Police Department, the Parking Control Officers and the Code Enforcement Officers were trying to accomplish enforcement to create either a parking Ordinance or some other facilitated way to issue violations right on the street. He noted that it was not necessarily the ability to work with the contractors themselves on the property, which was what Public Works did with Right-of-Way. The Police Department would like to be able to write citations to persons who violated the Right-of-Way Permit rule. He explained that the problem the Police Department faced was that many of the streets in Town were not regulated, and had open and free parking, and no real enforcement action could be taken on vehicles parked in an unregulated area. He commented that in a regulated area such as "No Parking Anytime" or "Permit Parking," the Police Department did take enforcement action.

Chair Coniglio commented that the three permits issued to a construction site should be visible not only to Code Enforcement Officers but to Police Officers as well.

In response to Chair Coniglio, Paul Brazil, Director of Public Works stated that presently Public Works notified the Police and Fire Department of unusual events, such as a lane closure, the use of a crane, etc. He noted that Public Works could share their database with regard to who had received a permit and where permit holders were being directed to park. He commented further that Chair Coniglio's reference to North Lake Way was a great example, because there was no parking on that street. He noted that side streets were used on a regular basis for construction parking.

Chair Coniglio questioned whether a contractor could be told not to have workers park on North Lake Way and only have three permit holders park on Sanford Avenue.

Mr. Brazil responded that staff could do that, and he noted that there were always a good number of contractors who would do the right thing. He explained that they were focusing on the violators, the ones that did not have a placard on their dash, the ones who were parking more than the three allowed. He advised that it would be enforceable, at some point, to allow the contractors to have just so many cars with the rest of their employees having to be bussed or to park onsite.

Dale Hedrick, Hedrick Brothers Construction Company, West Palm Beach, commented in opposition to the proposal brought forth today, noting that with the proposed regulations, he could not visit his own job site without getting in a van and being bussed to the site. He noted that he did have Hedrick Brothers written on his vehicle and hoped that there would be some leniency. He commented further as follows:

- He represented three generations of Hedricks who had worked in the Town of Palm Beach and that they had always had a wonderful relationship with Public Works, the Police Department, etc.

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- He had never seen a time when Code Enforcement could not flex its muscle in order to get things done.
- The Town already had tremendous power to regulate, and he believed that this would be a classic example of the law of unintended consequences.
- Hedrick Brothers had two vans, had busses and everything needed to move things around, which was an expense for the owners, noting that owners were always complaining about how much it cost to build in Palm Beach. It was just another layer that would be added on.
- He referred to Mr. Moore who earlier addressed the ability to enforce some of these other regulations, and noted that the Town needed to determine what the contractual relationship was between the owner and contractor, which would determine who actually paid for some of these fines. He noted that some of these employees lived week to week and could not afford these fines.
- He hoped that this proposal did not go forward and strongly believed the Town was moving in the right direction by coordinating with Public Works and the Police Department.

Committee Member Kleid responded that the Town was not going after the contractors that they knew did a good job, noting that there were other contractors who were not quite as observant as Mr. Hedrick.

Ms. Marix stated that none of this was new and that this subject was one of the most important subjects, which had troubled her for many years. She commented as follows:

- When she was Mayor, it had been just as bad as it was presently, and it had been decided then that the only possibility would be for all construction vehicles to park onsite. If unable to park onsite, workers could be bussed in or they could car pool. She noted that Town did not have two or three placards at the time when she was Mayor.
- The Town was not enforcing the Ordinance, which required construction vehicles and service vehicles to have identification placed on those vehicles.
- She disagreed that most of the streets were open. She advised that she had provided the Town with a list of every street from the north end down to Atlantic, noting that almost all of those streets did not allow parking, because they were narrow and dangerous.
- She believed that there was no reason to have five or six people who could ticket or not ticket other than for construction parking.

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- The "No Parking" streets should remain "No Parking" streets as they were narrow and dangerous and endangered public safety.
- The \$35 fine would not upset some workers.
- The Town was allowing landscape vehicles to become bigger and bigger and she recommended that the Town look into that situation. The vehicles used to be small enough that they could use the service driveways of residents, but now some take almost the full length of the property.

Chair Coniglio commented that the construction companies that were present cared about their jobs, the Town did not want to tie their hands, but at some point, there needed to be a balance with residential safety and usage. She noted that she had received complaints, particularly regarding Sanford Avenue, which was a "No Parking" street and there where ten or so cars parked with a placard or not, and people were unable to get out of their driveways. She noted that she wanted the Town to be as fair as possible to the construction companies and requested their help in finding a solution.

In response to Chair Coniglio, Robert Moore, 420 Sante Fe Road, West Palm Beach, advised that Ms. Marix was correct, and that in 1984, changes had been made to the Right-of-Way Manual, which was much less complicated then it was today. He provided a brief history regarding construction parking, noting that Al Dusey, as Public Works Director, had allowed unlimited number of parking spaces depending on the size of the job, complexity of job, and the need for the job. He advised that it was then that bussing was instituted along with the use of three placards per job with one for the owner. He explained that before the placards were instituted, there was unlimited parking, which was managed by the Public Works Department.

Paul Brazil advised that the Public Works Department had conducted many surveys, noting that the same survey was done in the same area repeatedly. The surveys came up with the same results: construction parking was about 1/3 of the on street parking, while 2/3's of the parking was for service people or guests.

Captain Blouin advised that the Police Department would enforce the rules across the board, but it was a complicated issue. He noted that he spent a good majority of his morning handling complaints from people who received parking citations or some sort of Code violation. He explained that for every person who did not want construction vehicles parked on their street, they did want to have the ability to have service personnel park in and around their house. He noted that there had to be a balance.

In response to Chair Coniglio, Mr. Bradford noted that Captain Blouin was present when the group reviewed the fee schedules.

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In response to Chair Coniglio, Captain Blouin advised that, at this time, he did believe the \$250 fine in addition to the \$35 fine to the contractor was fair.

Town Attorney Randolph advised that he was the only one that had not been a part of that group who met to review the fee schedules. He noted that there were State compliance factors that he had to review. He noted that State law had a \$500 maximum.

Mr. Ackerman commented on the following, which he had experienced that had created problems with on street parking:

- The Architectural Commission or the Landmarks Preservation Commission would require that certain landscaping remain on the property during construction or that the Town might request construction fences be put up, and when that was done, it limited the number of vehicles that could be placed on a job site at that time.
- At the end of the job, when the landscaping or drainage was to be put in, parking could no longer be onsite and additional parking offsite was needed to finish the job.
- One reason the Town had construction parking issues was that real estate in Town seemed to go in "hot spots." He provided the example of the "Sea" streets, which would be selling well so there would be a lot of construction on them at one time.

In response to Chair Coniglio, Attorney Randolph noted that he wanted the ability to be able to come back to them in regard to the fine schedule.

In response to Chair Coniglio, Committee Member Kleid advised that he was not suggesting that ORS look at the fee schedule again unless it was not legally acceptable. He explained that he was approving the concept as outlined in Item (f) provided that staff returned to them with a specific plan, and that the fines and everything else in it were legally acceptable.

Chair Coniglio explained that she agreed with the concept part but was not sure that the Committee should not look at the fine structure again. She believed that the fines were too high.

After further discussion, Committee Member Kleid noted that he did not have a problem with parking three construction vehicles on a block that had "No Parking" as long as they were not completely blocking the street. He advised that construction was just a matter of fact and as long as it was not being overdone people have to be allowed to do the construction work.

Mr. Brazil explained that delivery parking was short term, but a long term parking permit that was issued for the entire day did not allow the vehicle to park illegally and a legal parking spot needed to be found. He noted that staff regulated short term parking issues, such as a

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concrete delivery by requesting that traffic control be provided and that it was a safe situation. He advised that short and long term parking were two very different issues.

In response to Chair Coniglio, Mr. Brazil advised that the parking permit the Town provided needed to be used within a legal parking space even though not everyone did.

IV. ANY OTHER MATTERS

Chair Coniglio set forth the following four items for study:

1. Complaints on the number of Right-of-Way Parking Permits issued for commercial zones, and in particular, the length of time. She questioned whether it was feasible to reduce parking permits to either two or to place a time frame, i.e., 8:00 to 11:00 in order that businesses and residents were not impacted all day.

Mr. Brazil noted that the number and hours for Right-of-Way Parking Permits could be limited based on where they were located. The Town could limit the start time and cut short the finish time to get the contractors out of there, and the Town could also limit what equipment could be left on the site.

In response to Chair Coniglio, Mr. Brazil responded rarely would three parking permits be granted especially during the season on Worth Avenue. He noted that the Town worked with the business associations in that area to ensure that everyone would be accommodated, but advised that construction activities would occur in commercial areas.

Chair Coniglio commented that in light of the ongoing conversation related to traffic, congestion and parking, allowing projects that would take a year or two to receive three parking spaces was a prime example in reducing the number of spaces available to residents and businesses.

2. The size, weight and length of construction vehicles.

Mr. Brazil responded that construction vehicles were not, historically, getting larger, but personal vehicles had gotten bigger. He noted that construction vehicles such as the lowboy that delivered a backhoe, concrete trucks, etc. were the same sizes today as in the past, but the perception was they had gotten bigger. He mentioned that landscaping equipment, for example trailers, had increased in size because the mowers that had fit on the back of a pickup truck were now much larger.

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Chair Coniglio noted that she had observed, as a homeowner, that on the narrow streets, large trucks could not make the turns, and it seemed that trucks were getting larger and heavier. She suggested that this item be discussed at a future meeting with contractors, noting she would appreciate their input.

3. Ms. Marix's comments regarding the requirement that construction vehicles, by Ordinance, required the placement of identification on them.

Mr. Bradford noted that he believed Mrs. Marix was correct, but he would check out the Ordinance in conjunction with Attorney Randolph. The question was if an employee of a construction company had to mark his/her private vehicles.

Mr. Hedrick advised that there was a significant fine for not having identification on a construction vehicle, noting that it was a State issue. He commented that there were a lot of personal vehicles out there that were unmarked such as construction workers who drove their own vehicles onsite.

Committee Member Kleid informed Mr. Hedrick that the Committee was referring to construction vehicles owned by construction companies.

Chair Coniglio commented that this issue would be part of the Task Force watchfulness.

Ms. Marix noted that lawn maintenance companies, swimming pool companies and service vehicles all should be required to have identification on their vehicles.

Committee Member Kleid suggested that Mr. Randolph report back to the Committee regarding this Ordinance, and if it also required lawn service and swimming pool companies as well as all service providers, to have identification on their vehicles.

Captain Blouin noted that the way that Ordinance covered all commercial vehicles and was not particular or specific to construction vehicles. He advised that he wanted to meet with Attorney Randolph to ensure that the Police Department, if a concerted effort was made to enforce this type of Ordinance, was doing it correctly and legally.

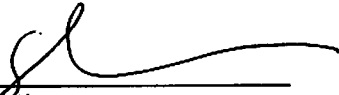
4. The Committee had discussed the proposition of notifying homeowners by the 25 days prior to the start of a project whether it was an extension, completion, etc. She requested PZ&B review extending that same courtesy to homeowners when there was a request for a time extension on construction hours.

Committee Member Kleid noted that once PZ&B's new software system was put into place, many of those things could be accomplished very easily.

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V. ADJOURNMENT

There being no further business, the Ordinances, Rules & Standards Committee Meeting of August 1, 2007, was adjourned at 10:58 a.m.



Gail Coniglio
Chairman

Richard M. Kleid
Committee Member