

TOWN OF PALM BEACH

Office of The Town Clerk

REPORT OF THE ORDINANCES, RULES & STANDARDS COMMITTEE MEETING HELD ON THURSDAY, APRIL 29, 2010

I. CALL TO ORDER AND ROLL CALL

The Ordinance, Rules and Standards Committee meeting was called to order on Thursday, April 29, 2010 at 9:00 a.m. in the Emergency Operations Center, 355 S. County Road, Palm Beach. On roll call, Chair Diamond and Committee Member Coniglio were present.

II. APPROVAL OF AGENDA

The Agenda was approved as printed.

III. PUBLIC COMMENT

There were none.

IV. REGULAR AGENDA

A. Old Business

1. Ordinance No. 8-10-Amending Chapter 22, Businesses; Article V, Entertainment Establishments

Committee Member Coniglio recused herself from the discussion as she is a business owner that could be affected by the Ordinance. She left the dais and filed Form 8B with the Town Clerk's office.

Town Attorney Randolph presented a draft Ordinance No. 8-10 and explained the history of the revision request as it began with noise complaints at 251 Club where the noise emanated from inside the Club. After further investigation, the zoning parameters were considered and he stated that any proposed ordinance should not be drafted to restrict one business, as opposed to similar establishments town-wide. He felt that the Ordinance he has drafted is not what the intent of the Committee was.

Chair Diamond agreed with Town Attorney Randolph and would not place any further burdens on the establishments. **Chair Diamond requested that it be made clear in the minutes that the Committee had decided not to proceed with Ordinance 8-10 and would recommend to the Town Council not to pursue any changes to the existing Ordinance.**

Chair Diamond indicated that 251 had become a code enforcement problem and asked for a status report regarding the Club.

Sgt. Curtis Krauel provided an update on the status of 251. He indicated he did not have specific data with him. He noted there were a few noise complaints, but nothing out of the ordinary. He would report back next month with specific statistics.

Town Attorney Randolph indicated that Captain Maio had provided documentation since November. Captain Maio responded that the unit owner directly above 251 had complained regarding the noise. Subsequently, an arrest was made as well as involvement of civil activity with regard to 251 had occurred, an injunction since the back-up was provided.

Town Attorney Randolph added that Sgt. Krauel had noticed that there was a small tweak that may need to be made. Rather than in Section 22-274 where the provisions of Section 22-273 say it should not apply to any entertainment establishment, that it should say the provisions of Section 22-273a should not apply to any entertainment establishment. Town Attorney Randolph indicated he would prepare a revision for a subsequent meeting.

2. Sec 42-230 Lawn Maintenance Equipment Noise

Deputy Town Manager Thomas Bradford directed the Committee to Section 42-230. He indicated that the Police Department handed out a memorandum at the beginning of the meeting regarding the Lawn Maintenance Equipment Noise. There was discussion about what should be an acceptable decibel level for machinery and what other common noise levels were. It was decided after conferring with Code Enforcement staff, the Town Attorney and the Committee that a level of 75 should be the acceptable and allowable decibel level.

Chair Diamond wanted to have an expert brought in that was not in the landscape business to discuss the hazards and impacts of loud noise levels. Town Attorney Randolph and Deputy Town Manager Bradford indicated that they would locate one. Committee Member Coniglio was opposed to bringing in an expert since it is what the residents can tolerate that counts. The situation was not only an annoyance, but could be a health situation as well, per Chair Diamond. Town Attorney Randolph indicated an expert would not add anything new since there was documented noise levels submitted in the back-up.

After further discussion, the Committee agreed that they would recommend to the Town Council that the Ordinance be changed to allow the noise level readings be changed to a maximum of 75.

3. Sec. 82-208 Grievance Resolution Board

There were no recommended staff changes.

4. Review of Draft Ordinances Incorporating ORS Approved Changes

1 Town Attorney Randolph indicated that he had compiled the Ordinances for the Committee's
2 information that have been changed thus far.

3
4 Committee Member Coniglio suggested removing the secretary from any Board or Commission
5 since the Town provides an employee to do the function.

6
7 Town Attorney Randolph indicated that in the past, the Secretary was designated to sign the
8 Approved Minutes. Assistant Director of Planning, Zoning and Building Veronica Close
9 commented that there was a reference to a secretary in the Landmarks Commission Code.

10
11 **Deputy Town Manager Bradford indicated that all of the other Boards and Commissions**
12 **would be checked and any reference to a secretary would be proposed to be deleted before**
13 **the Committee.**

14
15 Chair Diamond was concerned with the dollar amounts permitted for the contracts, in light of a
16 recent Town employee arrest. Town Attorney Randolph explained that the dollar amounts were
17 statutory. Deputy Town Manager Bradford explained that additional steps were being proposed
18 regarding the competitive procurement process, of which sealed bidding is only one alternative.
19 He added that most of the changes are replacing language that put sole reliance on the sealed bid
20 process that allows for other competitive procurement processes such as Design Build and
21 Construction Manager at Risk in addition to sealed bids.

22
23 Chair Diamond commented regarding Article I, Sec. 6-8, the hours of sale for off-premises
24 consumption of alcohol and stated that the change would allow Publix to eliminate the Sunday
25 limitation and expand the hours of the sale of alcoholic beverages during the week, which
26 included what was being sold at Publix. Deputy Town Manager Bradford noted that the change
27 would coincide with Palm Beach County's code. The new change in the language of the
28 ordinance would read "...between the hours of 10:00 p.m. and 7:00 a.m. of the following day..."

29
30 Committee Member Coniglio stated her continued concerns with the timeframe of abandoned
31 properties and how long it would take for the Town to be able to enforce any action. Captain
32 John Maio indicated that there are currently three foreclosures in Town. No further changes were
33 made.

34
35 **The Committee was in agreement with the proposed draft language.**

36
37 B. New Business

38
39 1. Chapter 90, Public Improvements

40
41 **There were no recommended changes to this chapter.**

42
43 2. Chapter 94, Sales

44 Assistant PZB Director Veronica Close indicated that this provision was not enforced and
recommended the Committee remove reference to the bond requirement. Both Town Attorney

1 Randolph and Lead Code Enforcement Officer Walton indicated that in the past, there was an
2 issue with businesses requesting going out of business sales at the end of the season only to
3 return the next season, but the Town has not had problems recently.

4
5 There was also discussion regarding garage sale permits and the fee permit schedule being
6 referenced.

7
8 **The Committee accepted the staff recommendations.**
9

10 3. Chapter 98, Secondhand Goods

11 **The Committee accepted the staff recommendations.**
12

13 4. Chapter 102, Solid Waste

14 Deputy Town Manager Bradford stated that the Town no longer bills for commercial solid waste
15 collections. There is a non-ad valorem assessment instead. The cost appears on the non-ad
16 valorem portion of a tax bill. A lot of the language needed to be changed to reflect that. The
17 other issue was a reference to a special collection or tax. The language in Section 101-1-3
18 should be kept in case there are times when they bill for special collections.

19
20 **Deputy Town Manager Bradford indicated he would bring back revised changes to the**
21 **Committee, but had wanted to receive Public Works input first.**
22

23 5. Chapter 106, Streets, Sidewalks, and Other Public Places

24 Staff proposed allowing Segway for Police Department use on the sidewalks. Captain Maio
25 indicated that the Police Department has applied for a State Grant to obtain a Segway for use in
26 Commercial Districts.

27
28 Chair Diamond asked about having bells on bicycles. Captain Maio indicated that State Law
29 requires an audible signal when passing on the left.

30
31 **On page 164, Number 4, The Committee suggested changing the words "Mobil Station" to**
32 **"Northwest Corner of Australian and South County Road".**
33

34 **The Committee accepted the staff recommendations.**
35

36 6. Chapter 110, Subdivisions

37 **The Committee accepted the staff recommendations.**
38

39 V. ANY OTHER MATTERS

Town Attorney Randolph indicated that previously, the Committee approved raising Door to Door Solicitation fees to \$300.00. After researching it, Town Attorney Randolph determined that any fee in excess of actual costs incurred would be found unconstitutional. Captain Maio indicated he had developed information on the time and personnel involved to generate the actual cost of such Town activities. Deputy Town Manager Bradford indicated more research will occur on the topic and be brought back to the Committee at a future meeting.

Deputy Town Manager Bradford indicated that there are six more chapters at the next meeting. There are also the follow-up items that would be addressed. There should be a May and a June meeting to conclude the review of the entire Town Code.

Deputy Town Manager Bradford announced that the Town Manager had sent out an email regarding some concerns that former Mayor "Deedy" Marix had with the Code Sections that pertained to Board attendance. He asked if that should be looked into further. Committee Member Coniglio noted that the Town Manager has the discretion to make additional allowances for absences if indicated, above the two unexcused allowable. Chair Diamond wanted the matter looked into because of the better technology in the new Chambers. He felt that there should be more leniencies with absences. There should be two types automatic and discretionary. He also wanted to know if under certain circumstances telephone participation could be permitted at Town Council, and Board and Commission meetings.

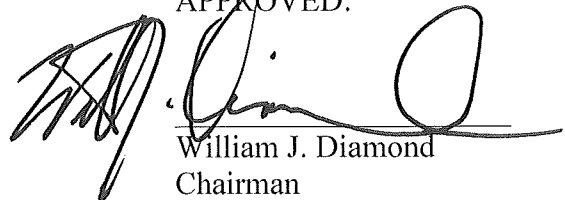
Town Attorney Randolph noted that there was a recent discussion regarding that, and it could be brought again. The State Law is clear that if there is a quorum present, that you can have other members by telecommunications. But, the Town Council reviewed that, they voted against that, because they wanted the Members present for presentations, which they could not see on ARCOM, Landmarks etc. if they are on a telephone call. Committee Member Coniglio was in agreement.

The Committee directed staff to review the circumstances of allowable absences for Boards and Committees.

VI. ADJOURNMENT

There being no further business, the Ordinance, Rules and Standards Committee Meeting of Thursday, April 29, 2010, was adjourned at 10:21 a.m.

APPROVED:



William J. Diamond
Chairman