

TOWN OF PALM BEACH

Office of The Town Clerk

REPORT OF THE ORDINANCES, RULES, AND STANDARDS COMMITTEE MEETING HELD ON TUESDAY, MARCH 29, 2011

I. CALL TO ORDER AND ROLL CALL

The Ordinances, Rules, and Standards Committee meeting was called to order on Tuesday, March 29, 2011, at 10:00 a.m. in the Town Council Chambers. On roll call, Chairman Diamond and Committee Member Pucillo were present.

II. APPROVAL OF AGENDA

The Agenda was approved as printed.

III. PUBLIC COMMENT

There was none.

IV. REGULAR AGENDA

A. Old Business

1. Ordinance Amending Chapter 18, Buildings and Building Regulations

Veronica Close, Assistant Director of Planning, Zoning, and Building, reviewed the changes to Chapter 18.

Sec. 18.1. Datum plane adopted. The North American Vertical Datum (NAVD) was added. It is the secondary measurement. The National Geodetic Vertical Datum (NGVD) is primary.

Sec. 18.61. Position established. Outdated wording regarding the building official was changed to the director of planning, zoning & building.

Sec. 18-64. Conflict of interest of employees licensed under Chapter 468.069. Chair Diamond read the wording of the change regarding conflict of interest and stated that it was a safeguard.

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1 Sec. 18.87. Floor elevation in low areas. The burden is now on a Florida registered
2 engineer to do the 18" measurement as approved by the Town Engineer and/or his or her
3 designee.
4

5 Sec. 18.147. Definitions. Major Project and Minor Project were added to the list of
6 definitions. Staff approval language was not added, although it is a practice authorized by
7 ARCOM, but it was believed that ARCOM retain authority over when a staff approval
8 should be made.
9

10 Sec. 18-166(a). Membership; appointment. Member Pucillo questioned the change
11 regarding architects no longer needing to be registered in the state. Thomas Bradford,
12 Deputy Town Manager, replied that it was an error and the strike-through should be
13 removed. Chair Diamond explained that he had requested the change but the Council was
14 not in favor of it.
15

16 Sec. 18-169. Removal provisions; absences. The change was already adopted by Town
17 Council ordinance but inadvertently left in the Code. It will be corrected.
18

19 Sec. 108.v. Incomplete application fee. The Planning, Zoning, and Building Department
20 (PZB) is converting to digital plan submission. In order to insure that permits are
21 submitted with the plans attached digitally, an incomplete application fee will be
22 instituted. This is similar to the Charitable Solicitation Permit.
23

24 Article V. Coastal Construction Code.

25 Sec. 18-278. Definitions. Additional definitions have been added by the Public Works
26 Department including Coastal Construction Control Line (CCCL), dune, and NAVD.
27 Member Pucillo stated that he understood that the Florida Building Code was
28 incorporated within Section 18 of the Town Code. He asked if the changes in Section 18-
29 278 conform with the Florida Building Code. Mrs. Close responded that Chapter 1 of the
30 Florida Building Code is called administration and is the chapter that local communities
31 can amend. She explained that the Town's Chapter 18 is considered Chapter 1 of the
32 Florida Building Code and can be amended. She said that the Florida Building Code ends
33 at Section 114 and then Article V, Coastal Construction Code, begins. Chair Diamond
34 asked if there was any overriding state law. Member Pucillo said that if the CCCL is
35 being adopted as part of the Town Code, how would it affect Town construction. Paul
36 Brazil, Director of Public Works, responded that the CCCL is adopted and controlled by
37 the state. He said he believed the wording was added for clarification. Following further
38 discussion on the CCCL definition, there was consensus to keep it in the revision to the
39 Code.
40

41 Article XV. Tents. Sec. 18-997. Permit-Required. There has been a problem with people
42 erecting tents without pulling a permit, getting a permit after the fact, or leaving the tent
43 up too long. Wording was added to require a tent permit application be submitted no less
44 than five working days prior to the event and if the application is not permitted in that
45 time, the Town can charge a penalty fee. There was discussion regarding the amount of
46 the fee. Chair Diamond suggested caution that the fee not be a tax but cover the cost. He

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asked that the contracting community be made aware of the fee. Mrs. Close reported that a news and notes section was to be added to the PZB website which would include a running list of any changes relative to the building industry. Rob Walton, Lead Code Compliance Officer, asked about the fee for residents putting up a tent at the last minute due to the weather. Following further discussion, it was agreed that PZB would meet with Code Enforcement to discuss the fees.

Motion was made by Member Pucillo and seconded by Chair Diamond to accept Section 18 as discussed and subject to making the correction to Section 18-166. The motion carried unanimously.

2. Ordinance Amending Chapter 38, Emergency Services

Mr. Bradford explained a reference to fire rescue had been added to certain sections of Chapter 38. He stated that the Code Enforcement Board alternative had been added to Section 38-34(b). Tim Pompos, Fire Marshall, explained that fire rescue had been added under false alarms because of potential liability issues with investigating a house when the police department was not available.

Motion was made by Member Pucillo and seconded by Chair Diamond to accept the changes to Chapter 38. The motion carried unanimously.

3. Ordinance Amending Chapter 46, Fire Prevention and Protection

Mr. Pompos explained that Section 46-71 was changed due to an issue with a building that had been vacant for several years. He said it provided guidance.

Motion was made by Member Pucillo and seconded by Chair Diamond to accept the changes to Chapter 46. The motion carried unanimously.

4. Ordinance Amending Chapter 66, Natural Resource Protection

Mrs. Close stated that ARCOM would give an approval of landscaping and staff had no mechanism to enforce the approval. She reported that landscapers and landscape architects had been contacted regarding the amended provisions. She stated that a list of criteria had been developed for types of projects that would qualify, permit requirements, and review standards. She further stated that minimum standards were also developed for properties. The changes to Chapter 66 were reviewed.

Article I Changes were made to definitions.

Sec. 66-39. Requirements. The word "mangroves" was removed to conform to the new State Statute. Minor changes were made to the Shoreline Management Plan.

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1 Sec. 66-43. Mangrove trimming.

2 Sec. 66-44. Mangrove removal. These sections were removed as part of the State changes
3 regarding mangroves.
4

5 Division 2. Permit The actual fee was removed and replaced with a reference. Member
6 Pucillo questioned the new language in Sec. 66-121(c) regarding compatible sand. Mr.
7 Brazil stated that the language was consistent with the Department of Environmental
8 Protection (DEP) approach to any work being done east of the CCCL. He explained that
9 it related to what a homeowner could do on private property.
10

11 Sec. 66-213. Definitions. The word “curb” will be defined to avoid use of extruded or
12 surface-laid curbs in Town.
13

14 Sec. 66-214. Applicability. In response to a question from Member Pucillo, Mrs. Close
15 explained that Section 66-214 outlines the projects that would require a landscape permit.
16 She said that any new construction on vacant lots or construction projects that have a
17 value of 50% or greater of the assessed value of the building on a site would require a
18 permit for the landscape plans. Member Pucillo clarified that an existing property would
19 need a landscape plan under the circumstances outlined in the Section. Chair Diamond
20 stated that the vegetation permit was another step in the new construction process.
21 Member Pucillo said that if a substantial renovation was being done, 50% or \$50,000, a
22 landscape plan would be needed. He read subsection (3) and summarized that if someone
23 wanted to change 25’ of hedge at the back or side of an existing house they would have to
24 get a landscape plan. Mrs. Close responded that only if it affected a neighboring property
25 negatively. Member Pucillo said he understood opacity and how it may affect a neighbor.
26 He asked if the owner was only changing the vegetation, such as from ficus to another
27 screening, would it require a permit and a plan and go before ARCOM? Mrs. Close
28 responded that it would only go before ARCOM if the plan would initially be required to
29 go before ARCOM. She explained minor changes may be approved by staff. Chair
30 Diamond asked if notice was required to surrounding owners. Mrs. Close replied that no
31 notice was required unless it was part of the normal requirement of ARCOM. Member
32 Pucillo expressed concern that the Town was imposing something on a property owner
33 who wanted to replace 25’ of hedge. Following further discussion, Member Pucillo stated
34 that the Section was dealing with side and rear property lines, hedging, and barrier. He
35 suggested that the wording in subsection b.ii. be changed from 25’ lineal feet to “if it
36 materially changes a majority of the property line or over 50% of the side or rear property
37 line.” Chair Diamond agreed.
38

39 Attorney Randolph questioned subsection f regarding tree removal and the height
40 requirement. Member Pucillo suggested subsection f be removed. Mrs. Close responded
41 that if the wording was removed people could take out a 50’ tree. She stated that the
42 definition of tree usually resulted in a 12’-15’ tree. She suggested the wording of
43 subsection f be changed to involve tree removal of a tree no less than or a certain size.
44 There was discussion regarding palms.
45

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1 Mr. Brazil commented that public projects within the road right-of-way could not
2 conform to the amended Code. Chair Diamond suggested that language could be added
3 that public projects are excluded. Attorney Randolph advised that normally the zoning
4 ordinances apply to private property. He said that staff would review it. Chair Diamond
5 suggested an exculpation clause be added saying that under no circumstances shall these
6 sections contravene any FDOT rules or regulations. Member Pucillo suggested that a
7 phrase could be added that it is the Town's intent in adopting this Section that it applies
8 to residential properties and not the Town. There was agreement to add a clarification
9 clause.

10
11 Sec. 66-235. Application procedure for vegetation placement permit. The vegetation
12 permit is similar to a building permit. It includes a timeline of 90 days to start and one
13 year to complete.

14
15 Sec. 66-236. Application procedure for vegetation removal permit. This section has been
16 refined to clarify removal permits versus placement permits. If vegetation is being
17 removed but not replaced, a permit will be needed if affecting more than 20% of the
18 landscape open space. Permitted work must be completed and pass inspection within six
19 months to install and six months to remove the vegetation. If removal of vegetation is
20 done in conjunction with adding approved vegetation, a permit is not needed for both.
21 Mrs. Close requested the addition of an exemption for removal of exotic species. She said
22 that no permit would be required.

23
24 Mr. Brazil reported that residents have to get a right-of-way permit for some landscape
25 work and there are certain times of the year when Public Works does not issue right-of-
26 way permits. Mrs. Close responded that a time extension provision could be added.

27
28 Sec. 66-262. Components of Landscaping plan. Mrs. Close stated that a comment had
29 been received on subsection (b)(5) concerning the requirement that a professional
30 engineer do an approved stormwater management plan when the State also allows
31 architects and landscape architects to do that work. She proposed that language be
32 changed to remove the wording "professional engineer" and replace it with a licensed
33 professional who is qualified by the State of Florida to perform this work." There was
34 consensus on the change.

35
36 Sec. 66-285. Minimum standards. Language was added to clarify that although there are
37 minimum landscape requirements in the Code that is not necessarily what property
38 owners will be allowed to provide. ARCOM and Landmarks have final approval of what
39 will be accepted for landscaping. Member Pucillo asked if 50% of an existing property
40 line was changed, would the property owner have to meet these standards? Mrs. Close
41 replied that this Section was for new construction or redevelopment of 50% of an existing
42 property. Member Pucillo suggested the language be clarified.

43
44 Mrs. Close summarized subsection (4) regarding parking lots. She stated that an absolute
45 number was inadvertently included in this subsection and would be changed to read:

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1 “The net interior area of all parking lots...shall contain a minimum of ten square feet of
2 landscaped area... A maximum of not less than ten parking spaces...”

3
4 Sec. 66-286. Water conserving landscape design. Subsection (c) was amended to include
5 a waiver which makes it less restrictive.
6

7 Raychel Houston, Code Enforcement Manager, noted subsection (5) includes fines which
8 should be removed and placed in the fine schedule. She reported that she and Rob
9 Walton had attended a meeting of the South Florida Water Management District and
10 were informed that the SMART irrigation systems are not exempt from the mandatory
11 water restrictions. She further reported that bubbler systems, micro-jets, and drip systems
12 are exempt. A discussion followed on efficient irrigation systems. Chair Diamond asked
13 about informing the community about the more efficient systems and placing something
14 on the website. Mr. Brazil responded that the Palm Beach Civic Association and the
15 Water Committee were trying to get the word out.
16

17 Section 66-289. Tree Trimming Standards. The representative of Mounts Botanical
18 Gardens had recommended that a certified arborist be used for the trimming of trees.
19 Chair Diamond and Member Pucillo stated their objections to the requirement saying it
20 was a substantial expense, onerous, and unnecessary. There was consensus to remove the
21 requirement. *Clerk's Note: Section 66-289 was discussed further after Sec. 66-290.*
22

23 Sec. 66-290. Hatracking/Topping Prohibited. Member Pucillo asked if subsection (c)
24 should include the addition of a designee for the Planning, Zoning & Building Director.
25 Mrs. Close agreed.
26

27 Section 66-289. Tree Trimming Standards (continued). Member Pucillo read the first
28 paragraph in the Section and asked about the standards. Mrs. Close explained the
29 standards were procedures for pruning, hedging, and fertilizing.
30

31 Rob Walton asked for clarification regarding the Section concerning vegetation that had
32 not been maintained. Mrs. Close replied that if a property owner had dirt, it would have
33 to be replaced with vegetation.
34

35 Sec. 66-311. Prohibited Plants. Rather than staff looking for prohibited plants, the
36 property owner, when applying for a certificate of occupancy, shall provide written
37 verification that the exotic species had been removed. The burden is on the owner.
38

39 The mangrove provisions were removed from this Section.
40

41 **Motion was made by Member Pucillo and seconded by Chair Diamond to**
42 **recommend the changes to Section 66 as discussed and revised. The motion carried**
43 **unanimously.**
44
45
46

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5. Ordinance(s) Modifying Attendance Requirements for Boards and Commissions that Meet Monthly and Quarterly

Chair Diamond reported that it had been agreed that three unexcused absences (three-strike rule) within a calendar year for Boards and Commissions that meet monthly is grounds for automatic dismissal. Attorney Randolph clarified that it was three regularly scheduled meeting, not special meetings. Chair Diamond stated that for a Board or Commission that meets less than monthly it would be three unexcused absences in a year (rolling 12 month period). He said it would include the Investment Advisory Board, the Recreation Advisory Commission, and the Pension Boards. Mr. Bradford reported that the suggestion made by the Finance Director for the quarterly boards was to have a rolling twelve months. Referring to Sec. 2-567, he noted that the existing wording was for failure to attend two scheduled meetings in any twelve month period.

Following further discussion, it was agreed to leave the removal provisions for the Planning and Zoning Commission, Code Enforcement Board, Investment Advisory Committee, Shore Protection Board, and Landmarks Preservation Commission as recommended in the Ordinances. It was further agreed that no action would be taken on the Pension boards and staff would come back to ORS with a recommendation for three unexcused absences in any twelve month period to be grounds for dismissal for the Recreation Advisory Commission.

6. Lawn Maintenance Noise Regulations

Chair Diamond questioned if hedge trimmers were as loud as leaf blowers and if the Town could mandate that leaf blowers be inspected so they don't exceed the 65 decibel (dBA) count. Mrs. Houston responded that Code Enforcement received the most complaints regarding leaf blowers. Chair Diamond asked about annual or semi-annual inspection because the leaf blowers tend to deteriorate over time.

Mr. Walton reported there are problems at times with the hedge trimmers because a lot of time the work is being done directly on the property line. Mrs. Houston added that the noise on the hedge trimmers had been limited to 75 dBA.

Mr. Walton stated that he receives numerous complaints regarding leaf blowers. He further stated that the Town's debris pick up schedule contributes to the issue because of the mandate that during season yard debris can only be put out one day ahead of time. He explained that this causes all the landscapers on a block to work on the same day which results in a cumulative noise. He said that some people are sensitive to different noise levels.

Following discussion regarding the hours that leaf blowers could be used, Chair Diamond suggested that the current hours remain and mandate that all leaf blowers have the 65 dBA sticker. He asked about mandatory inspection of leaf blowers. Mr. Walter responded that there are two stickers, the Underwriters Lab sticker that is put on by the manufacturer and the Town of Palm Beach Police Department sticker that was put on the machines

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1 when the Town first implemented the noise policy. Mrs. Houston reported that some
2 municipalities include an expiration date on the stickers. Mr. Walton expressed concern
3 about making the policy too onerous on an individual landscaper.
4

5 Mr. Walton stated that a noise meter test is done before a citation is written. Chair
6 Diamond asked the penalty for a leaf blower exceeding the noise level and if it had to go
7 before the Code Enforcement Board. Mrs. Houston replied that the citation did not go to
8 the Code Enforcement Board. She stated that the first violation is \$250 and the second is
9 \$500. She further stated that there had been only one repeat offender since the fines were
10 increased.
11

12 Chair Diamond asked if staff recommends any change to the noise Ordinance? Mrs.
13 Houston responded that the Town is currently at the lowest dBA that is technologically
14 available and lower than most cities. She suggested the Ordinance continue to be
15 reviewed as technology improves. She further suggested that staff continue to respond on
16 a complaint-driven basis or if a Code Enforcement officer notices a violation. Mr. Walton
17 added that the Police Department also assists in enforcing the Ordinance. He reported that
18 the complaints had dropped off since the fines had been increased.
19

20 It was agreed that no action would be taken at this time.
21

22 7. Proposed Format for Posting of Contractors Issued Town Permits

23 Chair Diamond commended Mrs. Close on the list of Construction Contractors on File
24 with the Town of Palm Beach. Mrs. Close stated the list would be posted on the website
25 with a link on the PZB webpage. She said that people could go on the web permits
26 section to view a history of the contractor.
27

28 B. New Business

29 1. Discussion Pertaining to Ordinance Amending Chapter 130, Vehicles for Hire

- 30 a. Charters
31 b. Language Prohibiting Limousine/Taxi Cruising
32 c. Definition of Motor Vehicle for Hire
33 d. Certificates of Public Convenience and Necessity (Permits)

34 Mr. Bradford stated that for purposes of the meeting, the term charter is used to describe
35 what is allowed for those for hire vehicles that do not have a Town permit. He explained
36 that a taxi would be a charter if a resident or non-resident called the taxi company to pick
them up or drop them off in Town. He said this was allowed under the Town's
ordinances to avoid conflict with the Commerce Clause and restraint of trade issues.

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1 Member Pucillo said he had no problem with language that said that nothing would
2 preclude a charter vehicle coming in. He stated the Town should not restrict it but he
3 questioned the need for it. Mr. Bradford explained that the benefit of the definition of
4 charter was if the Town moved to more restrictions in the Code it would help the Police
5 Department with enforcement. Captain Fred Hess of the Police Department agreed that
6 the new language would make a distinction between those that are cruising or soliciting
7 rides and those on a legitimate call for service.
8

9 Chair Diamond referred to Sec. 130-34 regarding taxi stands and the town manager being
10 authorized to establish on-street stands. He said that it should be the authority of the
11 Council. Mr. Bradford stated that the Town used to have taxi stands but they were
12 problematic and were eliminated. Chair Diamond proposed the language be changed to
13 replace town manager with Town Council being authorized to establish on-street taxi
14 stands. Member Pucillo questioned the need to change the Section and asked the history
15 regarding elimination of taxis in Town. Attorney Randolph briefly reviewed the history.
16 He said that the Town only allows charters that are taxis and they have no need for a
17 stand.
18

19 Attorney Randolph advised that the problem was late at night and early in the morning on
20 Royal Poinciana Way with taxis cruising to pick up fares from people at the late night
21 restaurants. Major Hess explained that from the police perspective, there was a legitimate
22 need for taxis for safety reasons. He further explained that if the law is enforced as
23 written none of the taxis would be allowed in the area. Chair Diamond added that the
24 hotels are also having problems getting taxis for their clients. Major Hess reported that
25 there are as many as 25 taxis circling the area and creating a traffic impediment. He
26 stated that the current 50 permits are taken up by the limousines. He suggested that the
27 number of permits be expanded by 25 and only to marked taxi cabs. He said the Police
28 Department could screen the companies (insurance, driver's license, condition of the
29 vehicle) and issue permits. Mrs. Houston reported that numerous cities charge for permits
30 for taxis and require that the permit be displayed. She explained that if a police officer
31 does not see the permit, they would have the right to stop that vehicle to see if they have a
32 fare.
33

34 Attorney Randolph cautioned against opening up the Town to the additional 25 taxis and
35 competing with the limo owners. He said this is a specific problem at a specific time of
36 night. He suggested it could be done on a limited basis. Member Pucillo stated that the
37 limos are not fulfilling the need. He proposed the hours could be regulated. Chair
38 Diamond agreed but did not want the geographical area limited. There was discussion
39 regarding the hours.
40

41 Captain Hess asked about a limited time taxi stand on Royal Poinciana, such as after 9:00
42 p.m. Chair Diamond expressed concern about limiting the area to Royal Poinciana.
43 Member Pucillo stated that the taxis could park in vacant parking spaces and said the
44 stands were not needed.
45

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1 Chair Diamond stated that another class of usage could be created for marked, metered
2 taxi cabs between the hours of 6:00 p.m. and 6:00 a.m. to service any hotel or restaurant
3 that needs the service. He added that the taxis would have to be screened by the Police
4 Department and receive a permit. Mr. Bradford said staff would discuss the cost of the
5 permit.

6
7 Following further discussion, it was agreed that a maximum of 25 permits would be
8 allowed for taxis and those regulated taxis would be allowed to cruise the Town from
9 6:00 p.m. to 6:00 a.m. and be permitted to park in vacant spaces. Attorney Randolph
10 advised that a Code Enforcement provision should be added and the penalty section
11 amended.

12
13 There was discussion regarding fines for taxis that were not regulated. Attorney
14 Randolph advised that collection may be a problem.

15
16 Mr. Bradford stated that staff would work on the language for the policy and bring it back
17 to ORS for review. Attorney Randolph asked if staff should move forward without first
18 receiving the support of the Town Council. Mr. Bradford suggested that the report of the
19 meeting would provide Council with the essence of the policy. He expressed caution that
20 some of the limo companies may object to the policy.

21
22 Chair Diamond asked about increasing the number of permits for limos. Mrs. Houston
23 stated that a restaurant and a hotel in Town wanted their own limo parked in their parking
24 lot but could not get a permit because they are all taken. Chair Diamond asked about
25 creating another category where a limo is restricted to being on the premises. Attorney
26 Randolph explained that there are people from Lake Worth who want to service the
27 hotels in the south area of Town but don't have one of the 50 limo permits. Mrs. Houston
28 reported that there are four companies in Town that own all fifty permits. Member
29 Pucillo asked about enforcement if the number of permits were increased. Attorney
30 Randolph advised that the number was initially limited to 50 to avoid flooding the Town
31 with vehicles competing for fares. He said that in order to increase the number, a need
32 must be shown. Following further discussion, it was agreed to take no action on
33 expanding the number of limo permits.

34
35 Mr. Bradford questioned the method for soliciting taxi cab companies. Mrs. Houston
36 shared that other municipalities had notified the larger cab companies of the new
37 ordinance and the list of regulations.

38
39 **V. ANY OTHER MATTERS**

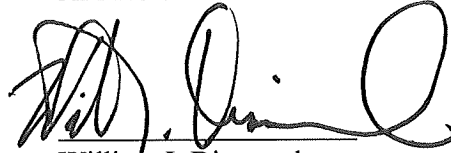
40 There were none.
41
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VI. ADJOURNMENT

There being no further business to discuss, the Ordinances, Rules, and Standards Committee meeting of March 29, 2011, was adjourned at 12:38 p.m.

APPROVED:

A handwritten signature in black ink, appearing to read 'William J. Diamond', written over a horizontal line.

William J. Diamond
Chair

ORS 3-29-11 BackUp Docs