

TOWN OF PALM BEACH

Office of The Town Clerk

REPORT OF THE ORDINANCES, RULES, AND STANDARDS COMMITTEE MEETING HELD ON TUESDAY, JANUARY 25, 2011

I. CALL TO ORDER AND ROLL CALL

The Ordinances, Rules, and Standards Committee meeting was called to order on Tuesday, January 25, 2011, at 10:06 a.m. in the Town Council Chambers. On roll call, Chairman Diamond and Committee Member Coniglio were present.

II. APPROVAL OF AGENDA

The Agenda was approved as printed.

III. PUBLIC COMMENT

Dr. Jerome Klein, 225 Emerald Lane, requested to speak. Committee Member Coniglio suggested that Dr. Klein speak under the item in New Business which addresses his concerns relating to restraints on construction activities during season (item IV.B.1.e). Dr. Klein agreed.

IV. REGULAR AGENDA

A. Old Business

1. Ordinance Amending Chapter 114, Taxation

Chairman Diamond stated that the business receipt taxes had been removed from the Ordinance. Town Attorney John Randolph explained that the taxes would come before the Council in the form of a resolution, which could be amended without having to go to first and second reading to amend the ordinance.

Committee Member Coniglio asked if the fees would be published and if they would be similar to those existing now. Thomas Bradford, Deputy Town Manager, explained that the schedule would remain in the Code but the schedule of business taxes would be in a master resolution. Attorney Randolph added that the resolution would be brought to the Town Council simultaneously with the second reading of the Ordinance. Veronica Close, Assistant Director of Planning, Zoning, and Building, stated that the fees would be identical to those existing now. She asked if the categories and the fees could be included

1 in the resolution. She explained that the categories and fees were available on the website
2 and posted in the Planning & Zoning Office. Attorney Randolph responded that if the
3 categories are in the Ordinance, people can see the categories for which they will be
4 charged. He suggested only the fees be included in the resolution in order to remain
5 consistent.
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3. Ordinance Amending Chapter 116, Telecommunications

Sec. 116-6 Public, Educational, and Governmental access channels: Committee
Member Coniglio questioned the 180 day time period. Mr. Bradford said he believed it
dovetailed the state law that gives the Town the right, even though franchises are issued
by the state, to get the channel.

Committee Member Coniglio stated that the current franchise application had a person
identified as the contact for any difficulties or complaints. She asked if that designee is
still identified for a resident or Town staff to go to for problem resolution. Mr. Bradford
replied that the Town would continue to know that contact at Comcast, but Comcast did
not have to address the Town's concerns in the same manner as they did in the past. He
explained that according to the law, residents would have to file any concerns directly
with the state in a complaint process.

Sec. 116-27 Appeals: Chairman Diamond asked if the wording "town commission"
should be "town council." Mr. Bradford agreed that the wording should be corrected. In
response to a question from Committee Member Coniglio, Mr. Bradford explained that
this section is the recourse for the permitting of people who are franchised to operate
within the Town.

**There was agreement on the amendments to Chapter 114, Taxation, and Chapter
116, Telecommunications, as discussed.**

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3. Ordinance Amending Chapter 118, Traffic and Vehicles

Sec. 118-123 Placement and use; time indicators: Committee Member Coniglio asked
if the use of a cell phone would be added as a capacity for payment. Mr. Bradford
explained that when a cell phone account is set up with the Town's kiosks, time is
charged through the person's credit card that had been set up on line. Chairman Diamond
asked if the word "major" credit card should be used. Mr. Bradford responded that the
Town only uses Master Card, Visa, American Express, and Discover. Attorney Randolph
suggested that the names of the credit cards not be included in the Ordinance.

Sec. 118-95 Responsibility for violations; authority of police to immobilize vehicle:
Chairman Diamond asked if in section (b) the immobilization should be changed for the
boot to be placed on the vehicle on the third occasion. Raychel Houston, Parking/Code
Enforcement Manager, responded that there had not been as many boots placed on
vehicles since the fee went up to \$350 to get the boot removed. She explained that once a

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1 third unpaid ticket is received the person had seven days to pay that ticket. She said that if
2 the ticket is not paid, whether or not the vehicle is parked in violation, the vehicle will be
3 booted. She stated it is working very well.

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5 Committee Member Coniglio stated that the Ordinance had been amended so that all
6 penalties and time frames are consistent with the practice and with each other.

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8 **Section 26:** Committee Member Coniglio asked if additional collection avenues were
9 needed for abandoned vehicles or does it go straight from abandonment to auction. Mrs.
10 Houston answered that once a vehicle is towed away, it becomes the responsibility of the
11 tow company to advertise for the registered owner and notify the owner.

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13 **Sec. 118-86 Regulation generally; tow-away zones:** Mr. Bradford explained that the
14 last sentence in Section (a) was a modified version of zone parking. He said he intended
15 to work with the merchants and property owners on Worth Avenue to do the zone
16 parking on a trial basis and, perhaps, on a sequential basis by block. Committee Member
17 Coniglio stated that this was to prevent rolling and promote a two-hour turnover for
18 parking spaces. A discussion followed on identification and publication of the zones.
19 Mrs. Houston explained that the new language was to prevent people from rolling within
20 the same parking space. Town Attorney Randolph clarified that people could park in the
21 same zone but not in the same space in excess of the time allowed.

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23 **There was agreement on the amendments to Chapter 118, Traffic and Vehicles.**
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26 4. Ordinance Amending Chapter 122, Utilities

27 **Sec. 122-141 Permit fees and penalties:** Regarding the industrial waste surcharge,
28 Committee Member Coniglio asked where the schedule would be located. Mr. Bradford
29 replied that it would be the same as the other fees, adopted in a separate resolution.

30 **Sec. 122-52 Applicability:** Rob Walton, Lead Code Compliance Officer, reported that at
31 least one resident in Town waters his yard from a cistern. He stated that the watering
32 regulations would also apply to him, which helps with enforcement. Mr. Bradford stated
33 that the South Florida Water Management District does not make a differentiation
34 between well water and city water users.

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36 **There was agreement on the amendments to Chapter 122, Utilities.**
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39 5. Ordinance Amending Chapter 126, Vegetation

40 **Sec. 126-31 Hazardous Trees:** Committee Member Coniglio asked if failure of the
41 property owner to adhere to the Ordinance would result in it going to Code Enforcement.
42 Mr. Walton replied that it would have to go to the Code Enforcement procedure, which
43 would give the resident time to argue their case, but the issue would fall under the
nuisance abatement process.

Mr. Bradford stated that if there is an emergency situation where a tree has fallen on a wire, FPL wants the resident to call FPL to take care of it.

Mrs. Houston explained that the nuisance abatement process is different from the Code Enforcement process. She reported that a certified letter is sent to the property owner giving them fifteen days to take care of the nuisance. She stated that the Ordinance gives the Town the right to take action on the nuisance, charge the property owner, and put a lien on their property for the work.

There was agreement on the amendments to Chapter 126, Vegetation.

6. Ordinance Amending Chapter 130, Vehicles for Hire

Chairman Diamond asked if there had been any complaints. Mrs. Houston replied that there is a problem because there are only fifty chauffeur's permits and they are all taken. She said there is also a problem with cabs coming into Town. She stated that the Ordinance does not address the issues. Attorney Randolph proposed that staff study these issues and come back to ORS with suggestions. A discussion followed on regulations for taxis and the posting of rates. Mrs. Houston suggested that the regulations for taxis and limos be separated.

Sec. 130-33 Amounts; receipt to be filed; regulations: Committee Member Coniglio asked if the list of drivers is provided to the Town. Mrs. Houston answered that the drivers for the chauffeur's permits are on file. She reported there are four companies in Town that have purchased all the permits due to the large number of drivers they provide. She stated that there had been complaints from the restaurants and hotels about the lack of chauffer permits available. Chairman Diamond said that this issue needed to be addressed.

Sec. 130-64 Permit Fee: Committee Member Coniglio asked if there was a time frame for compliance. Donna Bragel, Payroll Specialist, replied that a letter is sent out in August stating that the money is due by October 31.

There was agreement on the amendments to Chapter 130, Vehicles for Hire, with the understanding that further clarification would be forthcoming by staff.

B. New Business

Clerk's Note: The Committee agreed to hear comments from Dr. Klein next, under Item B.1.e. Following Dr. Klein's comments, the Committee reviewed the remaining portion of New Business in reverse order.

1. Discussion on Anticipated Agenda Items for future ORS Meetings

a. Completion and Presentation of Ordinances Amending Chapters 18 and 66

Mr. Bradford stated that the Chapter 18 changes were almost finished. He further stated that the changes to Chapter 66 would require a meeting with Public Works and Planning, Zoning, and Building. He said these were the last two ordinances to be reviewed in the Code book.

b. Ordinance(s) Allowing Non-Florida Registered Architects to Serve on Town Boards and Commissions Requiring Registered Florida Architects

Chairman Diamond asked if there was much difference with architects from other states. He said it would open the Town's ability to have more and different people on the Town's Boards and Commissions. Committee Member Coniglio stated that the Council had discussed this previously and the community, homeowners, architects, and construction companies agreed that the nuances of the State of Florida are important to the requirements, even for the Commissions.

Anita Seltzer, 44 Cocanut Row, addressed the Committee stating that unlicensed individuals can serve on ARCOM and Landmarks but cannot fill the positions that require a license. She said that if non-Florida registered architects are allowed to serve, there would be Florida licensed architects and landscape architects seeking approval for projects from an individual who had not obtained a license in Florida.

Attorney Randolph advised that the person on the job would be a licensed architect or landscape architect. He asked if the person reviewing the project from an aesthetic standpoint needed to be registered in the State of Florida.

Mr. Walton stated that because of the intricacies of Florida, he would like to keep it local.

Mr. Page reported that from time-to-time as there are vacancies on ARCOM and Landmarks, and it is sometimes difficult to find someone who is licensed in the State of Florida and willing to volunteer their time. Committee Member Coniglio responded that the role had been expanded to allow a non-resident to fulfill one of the architectural requirements.

There was no agreement on an amendment to the Ordinance. It was agreed that the item should go before the Town Council for discussion. Committee Member Coniglio suggested Mr. Page add this item to his comments at the next Landmarks and ARCOM meetings and bring back the responses for consideration.

c. Revisit Lawn Maintenance Noise Regulations

Chairman Diamond stated that there had to be a way to cut down on the noise because it was unbearable. Mr. Walton reported there are lawn vacuums but if they are required, it

1 would hurt the smaller maintenance companies. He explained that the problem is that
2 five-to-six maintenance people swarm the yard and the noise is cumulative. He stated that
3 the leaf blowers are restricted to 65 decibels but other yard equipment is not certified at
4 that level. Chairman Diamond asked if the regulations could be changed to apply
5 cumulatively. Mr. Walton responded that he could look into it. He reported that the leaf
6 blower complaints had dropped dramatically with the new standard. Attorney Randolph
7 advised that the Ordinance was written that the decibel level at the property line shall not
8 exceed "X." Mr. Walton reported that leaf blowers were not retested annually and it is a
9 voluntary compliance program. Mrs. Houston shared information on regulations in other
10 communities. Chairman Diamond suggested that Code Enforcement look for
11 technological improvements and other suggestions that could help reduce the noise. He
12 asked that they report back to ORS.
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d. Ordinance(s) Modifying Attendance Requirements for Boards and Commissions that Meet
Monthly and Quarterly other than ARCOM

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15 Mr. Bradford explained that the three-strike rule as it relates to absences appeared to have
16 been created on the assumption that most of the Boards and Commissions meet once a
17 month. He reported that the three Pensions Boards and the Investment Advisory Board
18 meet quarterly. He said that a person serving on these Boards could miss up to four
19 meetings in a row, depending upon when they fall during the year, and remain on the
20 Board. Attorney Randolph advised that the three-strike rule was not intended to apply to
21 Boards that meet quarterly. Following a discussion, Jane Struder, Director of Finance,
22 proposed that the rule for Boards or Commissions that meet quarterly be two unexcused
23 absences in any twelve-month period would be cause for removal from the Board. There
24 was agreement on the concept.
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e. Revisit Restraints on Construction Activities During Season

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27 Dr. Jerome Klein distributed a list of suggestions to assist property owners dealing with
28 construction. A copy of the list was provided for the record. He stated he had been
29 dealing with construction in his neighborhood for four years. He said he would like a
30 Gantt chart (work flow) distributed to all owners in the area of construction. John Page,
31 Director of Planning, Zoning, and Building, expressed concern that requiring contractors
32 to provide the information could be onerous. He reported that his department issues a
33 thousand building permits each year. There followed a lengthy discussion on the time
34 allotted to complete projects, the possibility of further restricting construction from
35 December 1 to April 30, enforcement of construction regulations, posting of a contact
36 person for construction jobs, and a listing of general contractors with experience in the
37 Town. Mr. Page stated that the Town is very concerned about trying to mitigate the
38 effects of construction especially during the season. Mrs. Close stated that people can
39 look up any contractor on the Town's website to find out how many times they had been
40 inspected, whether they were on time, whether the inspections passed or fail, and any
41 comments. Mr. Klein suggested owners be given an approved list or a database of the
42 contractors that had worked in Town with statistics. Chairman Diamond expressed

concern that the Town would be in the business of regulating contractors. Attorney Randolph stated that the homeowner should do their due diligence as opposed to the Town. He advised that any list be simply a statistical list of the contractors who have worked in the Town. He cautioned there could be allegations by contractors that one contractor is favored over another. Mr. Klein asked that the list include the size of the house, the length of time it took for completion and any code violations. He said the list should be given to the owner; not the architect. Mr. Page cautioned that many times the homeowner makes change to the project which may skew the timeframe. Dr. Klein stated that any list of contractors that had done work on the Island would include those that were bad, and that is why the list should include any violations. Mrs. Close reported that anyone can go on to the Town's Eden (software) system and query any construction type, such as single residence, to get all the contracts, contractor names, and permits. She explained that the instructions are included on the Planning and Zoning Department page. She stated that the new Eden system has information going back to October 2008, but older information was available. She further stated that when a contractor is terminated off of a job, the department generally does not receive anything other than the name of the new contractor. Chairman Diamond suggested a listing be developed of contractors since 2008 and the number of jobs they had completed. He explained that the theory would be that the frequent contractors at least have knowledge of the rules and regulations of the Town. He thanked Dr. Klein for his interest and informed him that the full Council would need to approve the recommendation.

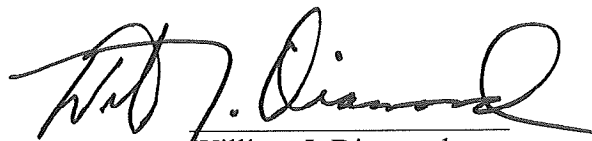
V. ANY OTHER MATTERS

There were none.

VI. ADJOURNMENT

There being no further business, the Ordinances, Rules, and Standards Committee Meeting of Wednesday, January 25, 2010, was adjourned at 12:02 p.m.

APPROVED:



William J. Diamond
Chairman

ORS 1-25-11 Backup