



# TOWN OF PALM BEACH

Ordinances, Rules and Standards Committee

## REPORT OF THE ORDINANCE, RULES AND STANDARDS MEETING HELD ON THURSDAY, JANUARY 9, 2020

### I. CALL TO ORDER AND ROLL CALL

The Ordinances, Rules and Standards Committee (ORS) meeting was called to order on Thursday, January 9, 2020, at 9:30 a.m. in the Town Council Chambers. On roll call, all committee members were found to be present.

### II. PLEDGE OF ALLEGIANCE

Chair Araskog led the Pledge of Allegiance.

### III. APPROVAL OF AGENDA

**Motion was made by Committee Member Crampton, and seconded by Chair Araskog, to approve the Agenda. On roll call, the motion passed unanimously.**

### IV. COMMUNICATIONS FROM CITIZENS - None.

### V. REGULAR AGENDA

#### A. Old Business

1. Proposed Modification to Chapter 106, Article VII, to Establish Town Council Approval Criteria for Walks/Runs Events on Public Property  
*Jay Boodheshwar, Deputy Town Manager*

Chair Araskog made comments regarding Town residents' quality of life and the burden walks/runs put on our residents who are construction weary and traffic fatigued. She discussed the Council's goals for the modifications to Chapter 106, Article VII and stated that it is her opinion that these modifications must be specific and detailed to give the Council the ability to protect our residents from disruptions to their quality of life and quiet enjoyment of their property or other safety issues.

Jay Boodheshwar, Deputy Town Manager, provided a brief background on the Special Events Ordinance with regards to Walk/Run events and clarified the objective of bringing this item before the Committee was to develop some criteria

1 for Council to reference when considering applications for new walk/run events. He  
2 presented a review of the proposed modifications by staff to Chapter 106, Article VII  
3 of the Town Code. The goal was to find a middle ground by reducing the  
4 modifications presented at the October 24<sup>th</sup>, 2019, ORS meeting and to eliminate  
5 redundancies.

6  
7 Chair Araskog stressed the importance of having criteria that will allow the Council  
8 to approve or disapprove of an event. She commented that if the criteria is too broad  
9 or too narrow, the Council would not have the criteria necessary to approve or  
10 disapprove an event. Chair Araskog opined that something in the middle would  
11 probably be best and discussed changes to specific sections that she thought would  
12 be appropriate to give the Council clarity and passed out her recommendations for  
13 changes.

14  
15 Chair Araskog and Deputy Town Manager Boodheshwar suggested changing  
16 number one to add “as well as the walk/run route.” It was agreed that number two  
17 would stay the same and that the new material would be discussed.

18  
19 **It was the consensus of the ORS Committee that the following quote be added to item number**  
20 **one of the existing criteria, “as well as the walk/run route.”**

21  
22 **It was the consensus of the ORS Committee that no change will be needed to item number two**  
23 **of the criteria.**

24  
25 Extensive discussion ensued regarding capping the amount of participants, limiting  
26 the number of times the same route can be used, and establishing a maximum number  
27 of events per year on the same route and other criteria. Committee Member Crampton  
28 agreed that quiet enjoyment of resident property was very important as our brand is  
29 a sought after commodity.

30  
31 Discussion regarding how many events per year ensued. Chair Araskog stated she  
32 would like all of the Council to weigh in on what they think the appropriate number  
33 should be, but when asked to make a recommendation she stated that her preference  
34 would be three in season, which would include the Turkey Trot and the Walk of  
35 Hope.

- 36  
37 1. Deputy Town Manager Boodheshwar recommended that there also be the  
38 limitation of one event per month so the events do not occur in the same  
39 month creating a tough situation for the residents every weekend. Chair  
40 Araskog recommended one every two months. In response to a question from  
41 Committee Member Crampton, Chair Araskog clarified that this was three if  
42 using the same or a similar route. This would not pertain to other areas; each  
43 area would have a maximum of three in season and not to exceed every other  
44 month.

1 **It was a consensus of the ORS Committee that three walk/run events occur in season and must**  
2 **be every other month if in the same route area, with the Walk of Hope and the Turkey Trot**  
3 **being included in that number for that specific route.**  
4  
5

6 Chair Araskog stated her opinion that additional criteria could prove important to  
7 allow the Council to give relief to an area that has had disruption to their quiet  
8 enjoyment of their property due to heavy construction in the area or other  
9 maintenance issues. Deputy Town Manager Jay Boodheshwar stated the Council and  
10 the Staff currently have the authority in Special Events Ordinance to deny an event  
11 based upon disruption of the community.  
12

13 Chair Araskog proposed adding a cap to the number for other walks/runs, but felt it  
14 was random at this point to pick a number. She thought 300 to 350 should be the  
15 maximum. Committee Member Crampton was more inclined to 500. Deputy Town  
16 Manager Boodheshwar in reply to Chair Araskog's question advised that the total  
17 number of participants in the Turkey Trot was about 1300. Mr. Crampton was fine  
18 with a number based on the Walk of Hope, which is about 500, that he said was a  
19 feel good and charitable organization that he could approve. Deputy Town Manager  
20 Boodheshwar stated that in lieu of the larger events in that route area, limiting the  
21 third walk/run to a smaller participant number would be fine. Chair Araskog stated  
22 her concern that in one route area there were 1300 in November, In February, there  
23 would be 500-800 people and that it is appropriate to have a much smaller number  
24 of participants for the third walk/run.  
25

26 The Committee agreed that 350 people would be the maximum allowed. Deputy  
27 Town Manager Jay Boodheshwar informed the Committee that the two  
28 grandfathered events would **not** have the cap of 350, unless the Council chose to  
29 require this maximum number of participants.  
30

31 Chair Araskog also asked that the Ordinance provide a cap on the maximum amount  
32 to include volunteers and organization members so as not to have an adverse effect  
33 on parking. It was recommended by Deputy Town Manager Boodheshwar that we  
34 pick 400 instead of 350 people in number 5 to include vendors, volunteers, walk/run  
35 participants, spectators, and workers from the organization sponsoring the walk/run  
36 event. He recommended we add the words "and all others" to include all participants,  
37 volunteers and the like. The Committee agreed.  
38

39 **It was the consensus of the Committee that 400 people should be the maximum participants**  
40 **allowed, including all volunteers, and the two grandfathered events would not have the cap of**  
41 **400 participants, unless the Council chose to change this requirement.**  
42

43 Chair Araskog requested that the ordinance add that the event will not begin setup or  
44 clean up before 8 o'clock in the morning if near any residential living unless  
45 approved by Town Council. Committee Member Crampton agreed. Deputy Town  
46 Manager Boodheshwar gave his opinion that the best time to have such events is  
47 earlier in the morning to get the walk/race in and out before residents start their day.

1 Chair Araskog preferred that start times for setup be brought to Town Council and  
2 not just be staff approved to give residents the ability to weigh in on whether the time  
3 is too early and was detrimental to their quality of life, safety etc. Deputy Town  
4 Manager Boodheshwar pointed out that this is already coming to Council, but Chair  
5 Araskog wanted this to be added to the criteria to give the Council a reason to say no  
6 that is clearly stated and to have resident participation. She explained she is looking  
7 for extra layers of protection and specificity. It was decided to add “and will not  
8 adversely affect the adjacent residential neighborhoods” to an existing clause.  
9

10 **It was the consensus of the ORS Committee to make the addition of the following quote to the**  
11 **existing criteria, “and will not adversely affect the adjacent residential neighborhoods.”**  
12

13 Discussion ensued on the maximum time for the event, which is already addressed  
14 in the Special Event Ordinance.  
15

16 Discussion ensued about sections in the originally proposed changes at the last ORS  
17 meeting that Deputy Town Manager Boodheshwar found were redundant. The  
18 Committee approved the removal of such redundancies in number 5, 6, 9 and others.  
19

20 **It was the consensus of the ORS Committee to remove the redundancies in the criteria that**  
21 **were discussed.**  
22

23 On the proposed number 10, Chair Araskog recommended staff provide a copy of  
24 the noise ordinance to each applicant and that they be reminded that they must abide  
25 by all noise ordinances.  
26

27 Chair Araskog requested no events on Sundays as this is the only day that  
28 construction and landscape work are not allowed. She stated that this is important  
29 when considering our resident frustration with the overwhelming construction and  
30 traffic issues during the week and even on Saturdays. It was pointed out that Kathleen  
31 Dominguez had included this in her version of the proposed ordinance discussed in  
32 October 24, 2019, ORS meeting.  
33

34 **It was the consensus of the ORS Committee to not allow events to take place on Sundays.**  
35

36 Chair Araskog asked that criteria be written to provide Council with a mechanism to  
37 not allow amplified music or amplified speaking before 9 a.m. An example was a  
38 warm up that occurred in one of the walk/runs that had a 7 a.m. warm up with music  
39 and amplified discussions. A resident of the towers came with a noise reader and was  
40 furious about being awakened on a Sunday to amplified music and talking. Chair  
41 Araskog asked that this be brought to Council for their comments.  
42

43 **It was the consensus of the ORS Committee to recommend to Council for discussion that**  
44 **criteria be provided to not allow amplified music or talking before 9 a.m.**  
45

46 Committee Member Crampton when asked stated that he was fine with Chair  
47 Araskog’s recommendations.

Chair Araskog asked if Council could advise on the different areas where she thought they needed guidance and more input before this went into ordinance form, but it was pointed out that it could be changed on the first reading at the February meeting.

**It was the consensus of the ORS Committee to recommend Council have further discussion on several criteria that was not decided upon.**

**It was the consensus of the ORS Committee to approve the changes as discussed, not as the document provided by Chair Araskog. Additionally, staff was directed to prepare an Ordinance for review by the Town Council at the February 11, 2020, meeting.**

B. New Business

1. Proposed Modification to Section 66-236 – Application Procedure for Vegetation Removal Permit, to Require Town Approval for Removing Landscape Buffers

*Wayne Bergman, Assistant Director of Planning, Zoning & Building*

Committee Member Crampton requested background information regarding the presentation. His concern was regarding the property rights and requiring owners to keep hedges on their own property to afford privacy to a neighbor.

Wayne Bergman, Assistant Director of Planning, Zoning & Building, provided a brief background on why the proposed modifications to Section 66-236 are being brought before the Committee and asked for direction from the Committee to have staff review and consider the section in depth. Mr. Bergman discussed instances in the Town where a property owner has removed a privacy hedge. It is a rare occurrence, but there have been enough coming forward that staff believed it merited a discussion to see if there was direction to fill the void.

Committee Member Crampton requested more specific examples to understand the problems. Mr. Bergman stated he was happy to bring the examples forward and clarified that the instances involved landscape plans that had been approved by the LPC or ARCOM and that in these instances, part of the approved package was to put the perimeter buffering in certain places. He stated that as soon as the Certificate of Occupancy was issued, or shortly thereafter, owners decided to remove the landscaping and to replace it or not replace it. Mr. Bergman explained those were the types of situations he is talking about.

Committee Member Crampton stated that his examples are a different issue of not following the ARCOM approved plans. Chair Araskog explained that in the ARCOM Ordinance there were criteria involving protecting neighbor's privacy and that ARCOM often requires certain hedging and landscape materials to protect the neighbors from windows or other aspects of the architecture that could remove the neighbor's privacy in their yards or homes.

Chair Araskog recommended that this be brought to Town Council for a decision on if there should be some mechanism to prevent hedge or landscape removal when it is implemented by ARCOM or LPC to protect the privacy of the neighbors or to hide garages, cars, or mechanical equipment from the public and neighbors. Chair Araskog expressed the importance of this particular issue as people have complained about the fact that they took the time to attend the LPC or ARCOM quasi-judicial hearing to request privacy protection and ARCOM worked extensively on the plans to protect their privacy and all agreed on the plans and then all of a sudden the privacy landscape/ hedging that was agreed upon is gone six months later. Chair Araskog stated that she has seen this occur and believes it is not fair that there is not currently any regulation requiring the landscape plans be followed once installed.

Committee Member Crampton asked why this is not a code issue. Chair Araskog explained that this is not a code issue because there is nothing in the current code pertaining to limiting the removal of ARCOM or LPC approved landscaping. Chair Araskog thanked Mr. Bergman for bringing this to the attention of the Council and the ORS Committee.

Chair Araskog stressed the extensive work put in by ARCOM on the landscape plans. Committee Member Crampton agreed that this was important if it was agreed to and issued a permit based by an ARCOM finding and they remove it that is a different issue to him. The Committee agreed an ordinance should be drafted to protect this. Chair Araskog used an example of a woman who attended several meetings to be certain a hedge would be used to protect her privacy from a larger building being built next door and then they changed it to trees, which did not give her the privacy she was promised at the ARCOM Meetings.

Chair Araskog also talked about possible unintended consequences if someone wanted to remove a ficus benjamina hedge or both neighbors have agreed to remove the landscape barrier, they probably should not have to go to LPC or ARCOM.

Chair Araskog stated that she thought Mr. Bergman's idea is great and asked that he come back with an Ordinance that holds the property owner to the plans unless they go to ARCOM or LPC for the changes if it affects privacy, mechanical equipment and garages or other potential blights on the neighborhood. If this was the intent, then code should require that it go to ARCOM or LPC unless both neighbors agree. The Committee asked Mr. Bergman to come back with an ordinance that takes the issues discussed into consideration.

**It was the consensus of the ORS Committee to direct staff to make revisions to Section 66-236 and bring it back to ORS Committee for additional review.**

2. Proposed Modification to Section 66-311 – Prohibited Plants, to Prohibit the Planting of Non-Native Ficus  
*Jay Boodheshwar, Deputy Town Manager*

1 Chair Araskog made comments in regard to Ficus Nitida and ARCOM, especially  
2 John David Corey, changing Nitida to another species. She discussed other types of  
3 non-native ficus that attract White Fly and require all the chemicals that are being  
4 currently sprayed. She mentioned Kathy Bleznak who spoke recently to Town  
5 Council regarding a time extension request. Resident Bleznak had put in a Ficus  
6 Nitida hedge to eliminate the heavy spraying the Ficus Benjamina required and  
7 thought she would not run the risk of having White Fly. Her neighbor did not spray  
8 for White Fly and it infested his Ficus Benjamina. Then moved to her property,  
9 infested her Ficus Nitida and then was required to use harmful chemicals on her Ficus  
10 Nitida.

11  
12 Chair Araskog stated there are two important factors: white fly and spraying  
13 chemicals, both of which were factors as to why the Council decided to enact a  
14 prohibition on Ficus Benjamina. This addition is meant to capture all ficus that  
15 attracts white fly. She discussed that at one point some Council Members believed  
16 Nitida was a good replacement for Ficus Benjamina, but that Ficus Nitida is equally  
17 susceptible to White Fly in nearby areas or from infested Ficus Benjamina. She  
18 pointed out that the White Fly will move from infested Ficus Benjamina to the Ficus  
19 Nitida. Chair Araskog discussed instances at ARCOM where members asked Ficus  
20 Nitida to be replaced because of this issue. Chair Araskog discussed the fact that the  
21 spraying required to prevent White Fly is the strongest in our Town and that  
22 therefore, it was recommended by Bobbie Lindsay and her that maybe only native  
23 ficus be allowed.

24  
25 Deputy Town Manager Boodheshwar provided a brief background on the changes  
26 last year to Section 66-311 dealing with prohibited plants and detailed that the  
27 Council had imposed a prohibition on any new planting of Ficus Benjamina. He  
28 reiterated Chair Araskog's point in stating that what they were seeing around town,  
29 and what they expect to keep seeing, is a movement from the White Fly's favorite  
30 dish, Ficus Benjamina, to its second favorite dish, Ficus Nitida. Based on the  
31 conversation at Council and the facts mentioned above, he recommended that the  
32 next step of banning the planting of any non-native ficus would probably be the cure  
33 for the White Fly jumping to their next favorite dish. He then reviewed proposed  
34 revisions to the language in the code.

35  
36 Discussion ensued regarding Bobbie Lindsay's knowledge of all non-native ficus  
37 and the potential for white fly to be attracted to them. Deputy Town Manager  
38 Boodheshwar stated that there was potential for all non-native ficus to attract White  
39 Fly as per his understanding.

40  
41 Chair Araskog approved of his language adding non-native instead of Ficus  
42 Benjamina, but stated that she was fine to just have Ficus Nitida versus all ficus. The  
43 Committee agreed to have Bobbie Lindsay opine at Council on non- native ficus in  
44 the Council Meeting to assist in understanding if all non-native ficus should be  
45 prohibited. Committee Member Crampton expressed his concern that we were being  
46 too broad without the knowledge or research necessary to an all-out ban of ficus.  
47 Chair Araskog agreed with Committee Member Crampton. Deputy Town Manager

Boodheshwar found that in the country there are 850 ficus species and perhaps more research is needed to realize which are used in Florida that attract white fly. The Committee agreed.

**It was the consensus of the ORS Committee to recommend to Council more discussion regarding prohibition of all non-native ficus species.**

**It was the consensus of the ORS Committee to direct staff to make revisions to Section 66-311 to include Ficus Nitida as a prohibited plant and bring a draft Ordinance to Town Council on February 11, 2020 for revision.**

VI. ANY OTHER MATTERS - None

VII. ADJOURNMENT

With no further business to discuss, the Ordinance, Rules and Standards Committee Meeting of Thursday, January 9, 2020, adjourned at 10:29 a.m.

APPROVED:

\_\_\_\_\_  
Julie Araskog, Committee Chair

ATTEST:

\_\_\_\_\_  
Patricia Gayle-Gordon, Acting Town Clerk