



**TOWN OF LAUDERDALE-BY-THE-SEA
TOWN COMMISSION
MEETING MINUTES
Jarvis Hall
4505 Ocean Drive
Tuesday, August 15, 2023
6:30 PM**

1. CALL TO ORDER, MAYOR CHRIS VINCENT

Mayor Chris Vincent called the meeting to order at 6:38 p.m. Also present were Vice Mayor Edmund Malkoon, Commissioner Alfred “Buz” Oldaker, Commissioner Theo Pouloupoulos, Commissioner Randy Strauss, Town Manager Linda Connors, Town Attorney Amelia Jadoo, Deputy Town Manager/Public Works Director Ken Rubach, Assistant to the Town Manager Courtney Easley, Development Services Director Jhanelle Campbell, Director of Budget and Finance Lucila Lang, Senior Special Events and Marketing Coordinator Katie Anderson, and Town Clerk Katrina Adler.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION

All present observed a moment of silence.

4. ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS

None.

5. PRESENTATIONS

a. Dive Into Summer Recap

Senior Special Events and Marketing Coordinator Katie Anderson reported that on July 29, 2023, the Town held its first annual Dive Into Summer event, which was a community success. The Town partnered with SCUBA for Good, which promotes adaptive diving for individuals with disabilities. The inaugural event attracted roughly 2500 people throughout the day.

b. Proclamation for Volunteer Fire Department

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Mayor Vincent read a Proclamation recognizing the Volunteer Fire Department (VFD) for their service to the Town. VFD Chief Judson Hopping accepted the Proclamation on behalf of the Department.

c. Proclamation for American Medical Response

Mayor Vincent read a Proclamation recognizing American Medical Response (AMR) for their service to the Town.

d. Downtown Design Clarification

Mayor Vincent explained that Staff has prepared a brief presentation to provide a summary of, and address concerns about, the Downtown renovation project, including its potential design and what the Town can expect from this project. He recalled that prior to the COVID-19 pandemic, the Town's outdoor café space was expanded in 2013 to provide outdoor seating for a number of Downtown restaurants. Since the pandemic, and after hearing input from Downtown businesses, it was determined that the additional spaces used for expanded outdoor dining would be implemented permanently.

Mayor Vincent noted that there have been concerns that the project may not be capturing as much additional square footage for each business as originally intended. He explained that he has asked Staff to review the pre-COVID-19 Downtown layout for each business as well as the layout for these businesses once the new design is implemented.

Development Services Director Jhanelle Campbell clarified that the breakdown of space is provided for businesses on the south side of Commercial Boulevard. She showed a rendering of existing conditions for each business in that area, followed by a rendering of the increased square footage and numbers of seats approved for these businesses.

Mayor Vincent requested clarification of the reduction in square footage necessary per body. Development Services Director Campbell advised that in the past, Staff calculated the number of allowed seats as one per 15 sq. ft.; however, this is now calculated as one seat per 10 sq. ft., which allows for increases in seating.

Mayor Vincent also asked for more information on why so many potential seats were gained for Even Keel, which is located on a corner. Development Services Director Campbell explained that this is because the backout parking spaces at that location are

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being eliminated. This change meets standards for the right-of-way and does not include any islands, walls, or additional landscaping, which affords that restaurant additional seating. Other restaurants which formerly had backout parking will experience a similar increase in outdoor seating space.

Development Services Director Campbell also pointed out that Harat's-By-The-Sea, which is on a different corner, is gaining fewer seats due to the deeper orientation of the parking spaces.

Town Manager Linda Connors explained that a trench has been dug as part of the construction phase in order to lay the forms for the footer wall. While this trench looks very large at present, the result will be an "eccentric footer," which means the wall will not be located in the middle of the trench but on the farthest edge of the rebar. It is designed to serve as a border to the landscaping planned for the area.

Town Manager Connors continued that one issue with the existing design was that pedestrians tended to walk through the landscaping. Plans for the renovated Downtown include more robust landscaping, which will create a more intimate setting for outdoor diners. The architectural wall has a maximum height of 14 in. which slopes down to 11 in. toward the landscaping and lighting.

Mayor Vincent observed that the revised layout and additional square footage seem to be working as a means to provide a net gain in seating. He requested more information on the wall's encroachment toward the existing pedestrian walkway near Even Keel and Harat's-By-The-Sea. Town Manager Connors clarified that the design is intended to add space so the restaurants can create a more intimate dining experience, while pedestrians are encouraged to remain on the path outside this space. The wall curves inward to discourage foot traffic through the outdoor dining area and establishes an easier path outside of the dining space.

Mayor Vincent stated that since the additional square footage to each restaurant has been clarified, he would like Staff to meet with any individual business owner who wishes to confirm these numbers. He emphasized that the intent is to provide additional seating in comparison to pre-pandemic conditions, and to give the Downtown businesses an opportunity for continued success.

Vice Mayor Malkoon commented that Staff has already calculated the additional space provided to the Downtown businesses and determined that the project represents an

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increase in dining area. He recognized Town Staff for their work on clarifying these dimensions on short notice.

Vice Mayor Malkoon also noted that one corner has less space due to the requirement for two Americans with Disabilities Act (ADA) -compliant parking spaces, which must be retained. He felt the access points for businesses are sufficiently wide, and concluded that the project's design makes sense without providing an excessive amount of sidewalk. He was not in favor of further delay to redesign the project, pointing out the significant investment of Staff time over the past year to 18 months in meeting with businesses to discuss the project.

Mayor Vincent briefly addressed trees, noting that Code requires the maintenance of a specific perimeter around the roots of trees. Town Manager Connors added that she had spoken with the project's architect to determine whether or not the wall could be shifted closer to the street; however, it was confirmed that the wall cannot be shifted further without encroaching upon the root systems of trees.

Commissioner Pouloupoulos observed that while the project's current conditions appear dramatic, it is better to proceed with construction. He was not certain that the project could be taken back to the drawing board at this point if it is to be complete before the tourist season begins. He recalled there were multiple Town meetings and workshops to review renderings and aspects of the project, and that all parties made some sacrifices in order to arrive at a project that benefits both businesses and pedestrians.

Mayor Vincent concluded that the intent of adding this Item to tonight's Agenda was to look at the project's progress and hear any concerns, not to delay it further. Upon consultation with Staff and discussion with all affected parties, his concerns have been addressed and he was comfortable proceeding with the project without changes.

Commissioner Pouloupoulos requested that Staff look into the possibility of better roadway signage, including larger detour signs as well as more accurate signs directing drivers and pedestrians to open businesses. Town Manager Connors noted that it may be possible to gain permission from a property owner to place some signage on private property, which would circumvent the need to seek further approval from the Florida Department of Transportation (FDOT).

Commissioner Oldaker confirmed that he was comfortable moving forward with the project as well.

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6. PUBLIC COMMENTS

At this time Mayor Vincent opened public comment.

Bill Ciani, resident, stated that one of his Downtown corner tenants has lost a number of outdoor dining tables due to the ongoing project, and requested that the Town consider a way to address this issue.

Heather Hefner, general manager of Harat's-By-The-Sea, advised that the restaurant owners have expressed concern with the loss of some outdoor tables. She did not feel that the dimensions reviewed at tonight's meeting were accurate, including the wall and access to the business as well as seating.

Mayor Vincent clarified the location of ingress/egress to the restaurant, and suggested that once the project is complete, it may be possible to review the area and make adjustments to architectural features and configuration.

Dmitri Senebrianik, business owner, requested clarification of one of the drawings showing the project's layout. Town Manager Connors advised that this particular drawing was not representative of additional square footage, but was intended to show the placement of pavers.

Mr. Senebrianik suggested that it could be helpful to see the exact location of tables as well as the number of tables that would be gained through the project. Mayor Vincent explained that each business is responsible for the layout of their tables within the additional square footage.

Town Manager Connors further clarified that the space is calculated using square footage because there had been difficulty comparing the different sizes of tables used by various restaurants. This disparity in size means that restaurants with the same additional square footage may be able to accommodate different numbers of new tables. She also noted that Florida Building Code specifies the number of persons who may be accommodated within a certain number of square feet; however, this will again depend upon the size of the business's street furniture.

Mr. Senebrianik also addressed the flow of pedestrian traffic, which is affected by the location of a bike rack in one area. Town Manager Connors confirmed that Staff will reconsider the bike rack, which may be replaced with a smaller model or relocated once the renovations are complete.

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Paul Novak, resident, stated that he had no further comment, as he felt the Commissioners' minds were made up.

With no other individuals wishing to speak at this time, Mayor Vincent closed public comment.

7. PUBLIC SAFETY REPORT

a. BSO July 2023 Report

Broward Sheriff's Office (BSO) Captain Tom Palmer, stated that Deputy James Goodwin is the Deputy of the Month for July 2023, citing two incidents from that month in which the Deputy provided outstanding service.

Captain Palmer also clarified that pedestrians are not permitted to carry alcoholic beverages in the open.

Commissioner Oldaker made a motion, seconded by Commissioner Strauss, to approve. Motion carried 5-0.

8. TOWN MANAGER REPORT

a. Town Manager Report for August 15, 2023

Town Manager Connors reported that Ray Qualmann Marine Construction has been selected as the contractor to complete work on the Bel Air seawall. This project is expected to begin in September 2023. Permits have been issued and the contractor is awaiting materials.

Staff has authorized solid waste provider WastePro to temporarily begin work at 6 a.m. in recognition of extreme heat conditions. The Building Department has similarly authorized its contractors to begin any exterior work at 7 a.m., and the Public Works Department is attempting to work earlier as well. Once the heat subsides, the Town will rescind these temporary measures.

A governing board has been established for the Solid Waste Disposal and Recyclable Materials Processing Authority of Broward County by a positive vote of Broward municipalities adding up to 75% of the County. The next step in the process is for each

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municipality to appoint a representative and alternate member to the governing board. The Commissioners determined that Commissioner Oldaker would serve as the regular board member and Commissioner Strauss would serve as alternate.

Town Manager Connors continued that the Town's new contract with the Pompano Beach Fire Department for Fire services includes a clause requesting that this new provider work with the Town to establish a Community Emergency Response Team (CERT). This is a national program which trains volunteers in basic disaster skills, including fire safety, life search and rescue, team organization, and disaster operations. Interested parties are encouraged to contact Robin Burns of the Pompano Beach Fire Department at (954)786-4695 or at robin.burns@copfl.com. This team will continue the tradition of volunteerism for which the VFD has set an example for many years.

Because the Town received Broward County transportation surtax funds for the operation of the Pelican Hopper, the Town Manager has reached out to the County requesting that the Town be allowed to use these funds for Circuit, which provides similar service. This request has been denied. The Town Manager has spoken with Circuit to enlist their help in seeking grant funding, and will keep the Town informed of any opportunities that arise. She noted that very few riders used the Pelican Hopper, while thousands of riders used Circuit during the month of July 2023 alone.

A Special Magistrate meeting is scheduled for August 24, 2023, and a Commission budget meeting is scheduled before the regular Commission meeting of Wednesday, September 13, 2023.

The Commissioners briefly commented on the ongoing success of Circuit within the Town. Town Manager Connors advised that Lauderdale-By-The-Sea, Pompano Beach, Hollywood, Fort Lauderdale, and Wilton Manors use this service and are encouraging the County to provide surtax funds toward its use.

Vice Mayor Malkoon asked if the Town can request condominium property managers to send the Town's newsletter to their residents. Town Manager Connors replied that the Town is working to strengthen its relationships with condominiums. She also noted that Circuit helps to advertise the Town's businesses and events with information and materials inside the vehicles.

b. May 2023 Finance Report

The May and June 2023 reports were presented together.

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c. June 2023 Finance Report

Director of Budget and Finance Lucila Lang noted that as of June 2023, the Town had completed 75% of its fiscal year. Some line items show that more than 75% of the budget has been spent, however, which is attributable to cost increases. These include printing, water service, and maintenance of equipment, vehicles, and buildings.

Commissioner Oldaker commented that the Town may be able to take advantage of current interest rates, noting that the state of Florida offers a program similar to a money market account. This program currently offers rates that would be favorable to the Town. He asserted that not taking advantage of this program was resulting in lost money, and that investment of existing dollars in the state program could be earning close to \$11,000/month. This could generate additional dollars that could go toward increasing the Town's Emergency Fund, as discussed during earlier budget workshops.

Commissioner Oldaker concluded that he felt the Town should expedite the investigation of how to move funds to more profitable accounts, possibly by "piggybacking" on another municipality's contract with an investment manager. He felt this should be done before the new fiscal year commences.

Commissioner Poulopoulos asked if the Town is required to keep certain funds, such as emergency reserves, in specific types of accounts, as it may be necessary to keep these funds liquid for emergency withdrawal. Commissioner Oldaker replied that to the best of his knowledge, it is possible to move monies in and out of the state fund at will. He added that the Town is already participating in the program.

Commissioner Poulopoulos asked if there are any additional hurdles involved in moving funds to the state program. Commissioner Oldaker advised that this is a "state-backed" fund which is regularly used by municipalities from throughout the state of Florida.

Town Manager Connors advised that the Town is unsatisfied with its current banking and investments, and plans to investigate other ways that funds may be invested. She noted that it will be necessary to determine the best program in which the Town may wish to invest. She has spoken with the Finance Department on making this a priority once budget discussions have concluded.

Mayor Vincent commented that discussions of this nature should happen individually with the Town Manager and/or Budget and Finance Director before being brought

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before the Commission. He felt it was inappropriate to suggest that Staff was not doing everything possible to maximize the Town's reserves and finances.

d. Q2 2023 Visitor Center Quarterly Report

Senior Special Events and Marketing Coordinator Anderson reported that the Visitor Center has now been managed by the Town for approximately 18 months. Its operations include two part-time employees as well as volunteers. Since March 2023, Visitor Center staff has added another four volunteers.

Data points are taken at the Visitor Center to determine who is being captured by their services. During the second quarter, April through June 2023, there was a nearly 20% increase of walk-in foot traffic over the previous year. The second quarter saw more domestic visitors, while the first quarter had reflected international travelers. One of the main ways visitors became aware of the Visitor Center was through signage.

In the second quarter, the Visitor Center had three Chamber of Commerce referrals, and will continue to encourage new businesses to join the Chamber. The Center has also procured new artwork from local artists, which will be featured within the facility. They have updated the Town map, assisted visitors and residents with the download of the Circuit app, distributed flyers to businesses, updated the TripAdvisor site, and worked with the Visit Lauderdale and Visit Florida sites to ensure all information is up-to-date.

Moving into the third quarter, the Visitor Center will continue to enhance its experience and seek to increase foot traffic in order to promote the Town and its businesses.

9. TOWN ATTORNEY REPORT

None.

10. APPROVAL OF MINUTES

a. Approval of Minutes for the July 11, 2023 and July 25, 2023 Special and Regular Commission Meetings

Commissioner Strauss made a motion, seconded by Commissioner Poulopoulos, to approve. Motion carried 5-0.

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11. CONSENT AGENDA

- a. **Resolution 2023-44 A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, APPROVING A PAYMENT INCREASE FOR ADDITIONAL SERVICES IN CONNECTION WITH THE AGREEMENT WITH TASK TIME SERVICES, LLC FOR FISCAL YEAR 2023; APPROVING AN INCREASE TO THE MAXIMUM TOTAL COMPENSATION FOR EACH FISCAL YEAR DURING ANY EXTENSIONS TO THE TERM OF THE AGREEMENT WITH TASK TIME SERVICES, LLC; APPROVING THE FIRST AMENDMENT TO THE AGREEMENT WITH TASK TIME SERVICES, LLC TO EXTEND THE TERM TO SEPTEMBER 30, 2024 AND TO PROVIDE FOR TWO OPTIONAL ONE-YEAR RENEWALS; PROVIDING FOR EXECUTION, IMPLEMENTATION, CONFLICTS, AND AN EFFECTIVE DATE.**
- b. **Resolution 2023-45 A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, APPROVING AN INCREASE IN PAYMENT FOR ADDITIONAL SERVICES IN CONNECTION WITH THE AGREEMENT WITH JEFFREY A. MODARELLI FOR FISCAL YEAR 2023; APPROVING AN INCREASE IN THE MAXIMUM TOTAL COMPENSATION FOR EACH FISCAL YEAR DURING THE TERM OF THE AGREEMENT WITH JEFFREY A. MODARELLI; PROVIDING FOR IMPLEMENTATION, CONFLICTS, AND AN EFFECTIVE DATE.**
- c. **Resolution 2023-46 A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AUTHORIZING THE TOWN MANAGER TO EXECUTE AN AGREEMENT WITH AN INDEPENDENT CONTRACTOR FOR THE PROVISION OF PROFESSIONAL FIRE PREVENTION CONSULTING SERVICES; AND PROVIDING FOR AN EFFECTIVE DATE.**
- d. **Employee Insurance Benefits for FY24**

Vice Mayor Malkoon requested clarification of the purposes of the contracts addressed in Items 11.a and 11.b, including why they reflect overages. Town Manager Connors explained that she currently has an approval limit of \$15,000, which means she may not authorize expenses larger than that amount without Commission approval. Because the work includes organization of the Building Department's files, there is no established end date at this time.

Town Manager Connors added that most of the expense will come from the Building Fund, which has sufficient funds to cover these and related activities.

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Vice Mayor Malkoon asked if it would be more efficient to hire a company to finish the project more quickly. Town Manager Connors replied that the files must be organized before they are digitized, and the contractor responsible has significant experience with that type of project. The second individual is a former City Clerk of Fort Lauderdale and also has related experience.

Town Manager Connors also addressed Item 11.c, which would hire Fire Marshal Steve Paine assist with the transition between the VFD and the Pompano Beach Fire Department. This will ensure as seamless a transition as possible. While the request is for up to \$50,000, it has not yet been determined how many hours per week Mr. Paine will work. He will serve as an independent contractor to the Town, and will be under the oversight of the Town Manager.

Mayor Vincent recommended that the Town Attorney's firm review the contractual obligation to ensure that the Town can legally pay Mr. Paine, or if his position requires a special license due to the public safety concerns of the position. Town Manager Connors confirmed that Weiss Serota Helfman Cole & Bierman has reviewed the contract. She further clarified that Mr. Paine will not be serving as a public official, but as a consultant. Any inspections or reviews will be the responsibility of the Pompano Beach Fire Department.

Commissioner Pouloupoulos made a motion, seconded by Commissioner Oldaker, to approve. Motion carried 5-0.

12. OLD BUSINESS

- a. Resolution 2023-39: A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING THE TOWN'S PURCHASING MANUAL; PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.**

At this time Mayor Vincent opened public comment, which he closed upon receiving no input.

Assistant to the Town Manager Courtney Easley advised that this Item was first presented at the July 25, 2023 Commission meeting. It has since been updated to reflect revisions recommended by Town Staff and the Town Attorney.

There was also a request from the Commission to provide additional information on one of the proposed changes to purchasing approval authority, which was to gather information from similarly-sized and neighboring municipalities with respect to their purchasing authority thresholds. This information is included in the Commissioners' backup materials.

Assistant to the Town Manager Easley recommended that the Commission may want

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to review each proposed change individually and arrive at consensus on them before voting on the Resolution.

Commissioner Oldaker addressed renewal of contracts, stating that he felt these should continue to be brought before the Commission for acknowledgement if not for approval. Assistant to the Town Manager Easley noted that this proposal was only for contracts with terms and conditions that would remain the same, while contracts with changes would come back to the Commission. It was determined that unchanged contracts could be presented as part of the Town Manager's Report, which would allow the Commissioners to discuss them as needed.

Commissioner Strauss addressed purchase approval authority, commenting that he understood the need to recognize rising prices and additional spending without bringing items back before the Commission; however, he advised that he did not mind reviewing items in advance of purchasing them. He suggested that the Commission may wish to consider an approval threshold of \$20,000 for the Town Manager rather than the \$25,000 proposed by the Resolution.

Commissioner Pouloupoulos agreed with Commissioner Strauss's suggestion regarding a possible \$20,000 approval threshold. He also noted the reference to change orders, pointing out that for a large contract, 10% of the contract amount could be significant. He added that while the Commissioners would discuss these items with Town Staff, bringing them formally before the Commission for approval would provide an additional level of transparency for the Town's taxpayers.

Mayor Vincent agreed with these comments as well, also emphasizing the importance of transparency. He was in favor of Commissioner Strauss's proposal for a Town Manager approval threshold of \$20,000. He was also not in favor of the change order threshold of 10% without Commission review/approval.

Commissioner Pouloupoulos made a motion, seconded by Commissioner Oldaker, to approve Resolution 2023-39 with the following changes:

- **Remove the extension deleting the renewal of contracts from the revised purchasing manual, giving the Town Manager authority to renew contracts;**
- **Change the Town Manager's contract approval amount to \$20,000;**
- **Remove the 10% threshold for Town Manager approval of change orders, and keep the amount at \$20,000**

Motion carried 5-0.

b. Reconsideration for Code Mitigation for 1500 South Ocean Boulevard, Unit #1608

Development Services Director Campbell recalled that a mitigation application came

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before the Commission in February 2023 for the property located at 1500 South Ocean Boulevard, Unit #1608. The property was cited for work performed without a permit. The Commission considered the application and ruled that the applicant would need to pay \$17,325.

Following that meeting, the property owner reached out to Town Staff with concerns regarding the facts presented. Development Services Director Campbell reviewed the file and recognized that some of the information presented to the Commission had been incorrect. This information would have had an effect on the Commission's decision. These corrections are outlined in Exhibit 2 accompanying the Item.

Development Services Director Campbell concluded that she was bringing the Item back for reconsideration with a recommendation that, due to the circumstances, the Commission accept a 5% payment of \$1155 rather than the 25% payment of \$17,325 from the owner.

Mayor Vincent requested clarification of the items on which the property owner had acted negligently. Development Services Director Campbell confirmed that while work without a permit had occurred, there were errors in the file, such as an assertion that no one was present to represent the owner at a February 24, 2023 Special Magistrate meeting. It was determined that the owner was present at that meeting.

Development Services Director Campbell continued that the Code Officer present at the February 24 meeting had requested both a continuance and an extension, which are two different procedures within the Code process. In a continuance, the fines will continue to accrue; if an extension is granted, the compliance date would be reset and the fines would not start to accrue until that new date. Only a continuance was recorded at the Special Magistrate meeting, which meant fines began to accrue on February 24.

Mayor Vincent recommended that the Applicant be granted 100% mitigation of the fines, as the Town should recognize its errors in this case.

Vice Mayor Malkoon asked what safety can be put into place so a similar error does not recur in the future. Development Services Director Campbell noted that the Code Officer who handled the case is no longer with Town Staff, and Code Officers are now instructed to ensure that diligent notes are taken at Special Magistrate hearings, including the presence of the Applicant.

Commissioner Strauss emphasized the importance of building relationships between the Town and its condominium residents, possibly identifying a liaison for this purpose. He pointed out that issues such as this one could be cured or prevented by strengthening relationships with condominiums in the future. Mayor Vincent was also in favor of a liaison to help educate the boards on these issues.

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Commissioner Pouloupoulos made a motion, seconded by Commissioner Strauss, to mitigate the fines to 100%. Motion carried 5-0.

13. NEW BUSINESS

- a. RESOLUTION 2023-43 A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, ESTABLISHING A SCHEDULE OF FEES FOR USE OF THE TOWN'S COMMUNITY CENTER; PROVIDING FOR IMPLEMENTATION, CONFLICTS, AND FOR AN EFFECTIVE DATE.**

At this time Mayor Vincent opened public comment, which he closed upon receiving no input.

Assistant to the Town Manager Easley advised that since 2004, the Town has received funding from Broward County's Community Development Block Grant (CDBG) program to supplement the costs of operating the Community Center. In July 2023, the Broward County Board of County Commissioners voted to discontinue receiving CDBG funds due to a number of issues with that program.

To replace the funds that will no longer be received, which came to approximately \$9000/year, Staff proposes that the Town charge a small annual fee to users of the Community Center to supplement the Town's budget for the Center. Fee structures from several Broward communities were reviewed, with the results included in the Commissioners' Agenda Memo. Most municipalities charge \$12 to \$15 per class.

Staff recommends a fee structure that will provide Town residents with an annual fee of \$25, with non-residents to be charged \$50. There would be no cost to volunteer instructors. The per-class fee would be \$5 and the weekly fee would be \$15.

Based on enrollment numbers for the current fiscal year, the Town projects that the new fee schedule would bring in approximately \$28,875. Staff is seeking approval for Resolution 2023-43 for this proposed fee structure.

Vice Mayor Malkoon asked if Armilio Bien-Aime, who operates the Community Center, was in favor of the proposal. Assistant to the Town Manager Easley confirmed this is the case.

Vice Mayor Malkoon made a motion, seconded by Commissioner Oldaker, to accept the fee schedule as presented. Motion carried 5-0.

- b. Special Event – Community Church Monthly Flea Market beginning September 2, 2023**

Senior Special Events and Marketing Coordinator Anderson stated that the

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Community Church requests the ability to hold a monthly flea market on the first Saturday of each month, from September 2023 through July 2024, to raise funds for the church. The Applicant has submitted a special event application and has paid the \$100 application fee. The flea market will be a recurring event and has taken place in the Town over the last several years.

The event season would consist of the following Saturdays in 2023-2024:

- September 2, 2023
- October 7, 2023
- November 4, 2023
- December 2, 2023
- January 6, 2024
- February 3, 2024
- March 2, 2024
- April 6, 2024
- May 4, 2024
- June 1, 2024
- July 6, 2024

Setup for the event will begin at 7 a.m., with the event beginning at 8 a.m. and concluding at 2 p.m., with cleanup to be completed by 4 p.m. Tables will be arranged inside the church's Fellowship Hall and outside the building as well. Acoustic music may be played, and free parking will be available just north of the Community Church. Food will be served from the church's kitchen unless approval has been granted for a food truck.

The Town recommends conditional approval of food trucks at some of these events. At least one week prior to an event at which a food truck is anticipated, the church will be required to provide the Town with a site map identifying the number of trucks, their location, proof of insurance, and the proposed hours of operation. The Town Manager will review this information and provide authorization of the site map by the Thursday before the event.

In addition to approval of the event, the Applicant requests waiver of the \$15 per event day fee, as well as the use of Friedt Park for acoustic music and a gathering place for the event's guests.

Should the Commission approve the event, Town Staff recommends approval with the conditions reflected in the tentative permit, attached as Exhibit 2.

Staff requests direction from the Commission on the following items:

- Approval of the event, with Staff's recommended conditions as outlined in the tentative permit
- Waiver of the \$15 per event day fee

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- Approval for the Community Church to use the annex of Friedt Park

Commissioner Pouloupoulos advised that while he agreed with approval of the event and Town Staff oversight, he was not in favor of permitting food trucks, as they would compete with the Town's restaurants that are experiencing construction. Commissioner Strauss agreed that any food trucks at the event should represent the Town's restaurants.

Commissioner Oldaker asked if a representative of the Community Church had reached out to any Town restaurants to determine if they could participate in the event. Senior Special Events and Marketing Coordinator Anderson replied that she was not aware of any such communication, but confirmed that Town Staff could relay this suggestion to the Applicant.

Vice Mayor Malkoon did not feel a food truck would constitute direct competition with a restaurant, as these vehicles cannot provide a seated dining environment. He was not opposed to encouraging Town restaurants if they wished to participate, but noted that the attendees of a flea market are unlikely to visit the Downtown area.

Commissioner Pouloupoulos expressed concern that allowing food trucks by outside restaurants could open other Town events to the possibility of outside food trucks that could take business away from Town restaurants.

Motion made by Commissioner Pouloupoulos, seconded by Commissioner Strauss, to approve the Application, under the condition that no food trucks will be allowed from outside vendors. Motion carried 5-0.

14. COMMISSIONER COMMENTS

Commissioner Oldaker noted that he had expressed an opinion on a figure within a Staff report based on research he had conducted with the intent of helping Town Staff. He emphasized that he has raised issues individually with Staff in the past, but also wished to discuss these issues with the other Commissioners, as they may not have these discussions outside meetings due to the requirements of the Sunshine Law. He felt it was unfair for another individual to present an opinion on this issue without permitting a rebuttal and further discussion.

Vice Mayor Malkoon reported that he attended the recent Florida League of Cities conference.

Mayor Vincent stated that if Commissioner Oldaker wished to propose plans for the investment of Town funds, they should have been placed on a Commission Agenda at any point during the past year. He took issue with the manner in which the item had been raised without prior discussion.

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15. ORDINANCES 1ST READING

- a. Ordinance 2023-03: ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, AMENDING CHAPTER 6, “BUILDINGS AND BUILDING REGULATIONS,” ARTICLE I “IN GENERAL” OF THE CODE OF ORDINANCES, TO UPDATE REGULATIONS REGARDING CONSTRUCTION FENCING REQUIREMENTS; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.**

At this time Mayor Vincent opened public comment, which he closed upon receiving no input.

Development Services Director Campbell advised that Chapter 6 of the Town's Code of Ordinances outlines the requirements for temporary perimeter fencing when a construction project begins; however, Code is not explicit on the type of fencing required. As a result, not all construction fences which have been installed meet the intent of Code.

Staff recommends updating Code to reflect the specific types of fencing the Town wishes to see in order to ensure that proper locks are placed on gates and that canvas or other fencing is also uniform in nature. The proposed Ordinance includes all of these requirements.

Mayor Vincent stated that he was in favor of any Ordinance which would abate a nuisance to adjoining properties, streets, or waterways. Development Services Director Campbell advised that the requirement would be for a 6 ft. chain link fence with canvas or other screening material. She added that Staff had reviewed the Codes of neighboring communities for comparison. Mayor Vincent concluded that some properties may need to be reviewed on a case-by-case basis.

Commissioner Oldaker requested clarification that no fencing would be required if a residential property was performing interior work. Development Services Director Campbell confirmed this. Commissioner Oldaker noted that exterior work may not include a physical structure itself, but could involve digging in a yard.

Mayor Vincent asked if total landscaping would require a construction fence. Development Services Director Campbell replied that a fence would not be required in

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this case. Mayor Vincent recommended looking further into these clarifications before moving forward with the Ordinance.

Development Services Director Campbell pointed out that a stand-alone landscaping permit would not require input from the Building Department, although a landscaping project in conjunction with other renovations would. Mayor Vincent observed, however, that a landscaping project could generate significant dust. He asked when a perimeter fence would need to be taken down so a project can move into a landscaping phase. Town Manager Connors replied that once major exterior construction of a structure is complete, the fencing could be removed. She acknowledged that it would be difficult to make the Ordinance fit every situation.

Mayor Vincent explained that his intent was to lessen the burden on homeowners who would be required to pay for barriers. He concluded that there was significant ambiguity in the proposed Ordinance.

Commissioner Strauss agreed that any required fencing should reflect uniformity, and that the instances in which fencing is required may need further clarification. Mayor Vincent suggested that fencing be required in cases of major construction, which means more than 50% renovation involving the exterior of a structure.

Commissioner Pouloupoulos recommended the addition of the words “to a structure” to line 31 of Section 6-8, Subsection C-1. He reiterated that the definition would not apply to landscaping, but to perimeter site fencing for new construction or substantial exterior alterations. Mayor Vincent pointed out that this would require property owners to erect a fence for work such as enclosing a carport, which could be a greater expense than the project itself.

Development Services Director Campbell advised that the intent of the proposed Ordinance was not to increase the number of instances in which a fence would be required, but to create uniformity for the use of these fences and address issues in which appropriate standards, including security issues, were not met.

Commissioner Pouloupoulos suggested that if the Commission wished to further limit the fencing requirement to a certain price point, the existing Ordinance would need to be amended further.

Town Manager Connors referred to line 49 of the proposed Ordinance, which refers to an approved and maintained silt fence to prevent construction debris from entering a

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waterway from abutting properties. She pointed out that the silt fence is only required for properties adjacent to waterways; however, a screen or canvas is required for all fences. She felt the use of Commissioner Pouloupoulos's proposed language would allow the Ordinance to move forward. She also noted that the reference to significant construction provides additional leeway for discretion while allowing the Town to ensure that makeshift and/or insufficient fencing on construction sites is not an option. The fences must be chain-link, include a screening element, and provide a locking mechanism.

Commissioner Pouloupoulos made a motion, seconded by Commissioner Oldaker, to approve, subject to line 31 being edited to include the language "significant exterior alterations or additions to a structure is required."

Commissioner Pouloupoulos further clarified that this language would remove the possibility of opening the Ordinance up to include landscaping.

Mayor Vincent again stated that he felt this went too far, again citing the example of enclosing a carport as placing too great of a financial burden on a property owner. Development Services Director Campbell pointed out that enclosure of a carport constituted a significant exterior alteration.

Commissioner Pouloupoulos advised that the term "significant" would be left to the discretion of Staff. For example, Staff can inform a property owner seeking to add a garage or enclose a carport that the alteration or revision would not be sufficiently significant to require a fence. He again recommended inclusion of the phrase "to a structure" to ensure that the requirement would not be opened up to landscaping.

Motion carried 5-0.

b. Ordinance 2023-04: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 14.3, "PARKS AND RECREATIONAL FACILITIES," OF THE TOWN CODE OF ORDINANCES TO DEFINE AND REGULATE DESIGNATED CHILDREN'S PLAY AREAS AND TO OTHERWISE UPDATE AND CLARIFY CHAPTER 14.3; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND FOR AN EFFECTIVE DATE.

At this time Mayor Vincent opened public comment, which he closed upon receiving no input.

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Vice Mayor Malkoon requested clarification of the definition of a children's play area, which the Ordinance suggests would be denoted by signage. He asked if it might be better to call this space a playground or play equipment area, pointing out that an entire park could be characterized as a play area. Town Manager Connors advised that an entire park is not designated for the use of children, adding that the proposed Ordinance defines children as persons aged 12 years or younger.

Town Manager Connors also noted that the language of Chapter 14.3 regarding weapons was updated for consistency with State Statutes, and language addressing use of drugs and/or alcohol in parks areas was also clarified. The proposed language is consistent with that of other municipalities regarding designated children's play areas, and there is no legal precedent of its being overturned.

Commissioner Pouloupoulos stated that there is no reason adults without children should be loitering in a playground area, even if no children are present. He pointed out that a family may be reluctant to enter a park if they see this activity.

Mayor Vincent asked if the proposed Ordinance applies to fenced areas. Town Manager Connors advised that line 37 of the Ordinance defines "children's play area" as the area within the Town park, bounded by signs that identify the designated area as a children's play area, pursuant to the Chapter. This means the area must be demarcated for clarification, whether by a fence, hedge, or other component, with signage identifying the space as a children's play area.

Commissioner Strauss expressed concern with the proposal from a Constitutional standpoint, as he felt there may be subjectivity. He pointed out that the Town only has one children's play area, which is a fenced playground at Friedt Park, and recommended that the Ordinance specifically refer to that area and location.

Mayor Vincent also expressed concern with the potential subjectivity of the issue, offering the example of individuals who may be in the park to play sports. A different interpretation of the proposed Ordinance could mean those individuals could be asked to leave if children enter the play area.

Town Manager Connors pointed out that other space, such as the basketball court, will not include fencing denoting it as a children's play area, while the children's play area will include this signage.

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It was determined that the term “children’s play area” would be defined as the area fenced within the Town park and bounded by signage identifying it as a play area.

BSO Captain Palmer advised that the area under discussion is clearly delineated by fencing and signage, and he did not foresee any issues with the proposed Ordinance.

Commissioner Poulopoulos made a motion, seconded by Vice Mayor Malkoon, to approve Ordinance 2023-04 with the verbiage “fenced with signage.” Motion carried 5-0.

- c. Ordinance 2023-05: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, AMENDING CHAPTER 8, “FIRE PREVENTION AND PROTECTION,” OF THE CODE OF ORDINANCES BY AMENDING ARTICLE I “IN GENERAL” AND ARTICLE II “FIRE DEPARTMENT” TO ADOPT THE CITY OF POMPANO BEACH’S FIRE PREVENTION CODE AND FEE SCHEDULE; AMENDING ARTICLE VI “FIRE PROTECTION SPECIAL ASSESSMENT” TO CLARIFY AND UPDATE PROVISIONS; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.

At this time Mayor Vincent opened public comment, which he closed upon receiving no input.

Commissioner Oldaker made a motion, seconded by Commissioner Strauss, to approve. Motion carried 5-0.

16. ORDINANCES 2ND READING

None.

17. RESOLUTIONS – PUBLIC COMMENTS

None.

18. QUASI JUDICIAL PUBLIC HEARINGS

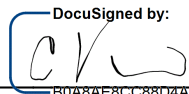
None.

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19. ADJOURNMENT

With no other business to come before the Commission at this time, the meeting was adjourned at 9:45 p.m.

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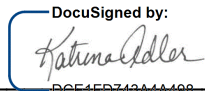


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Mayor Chris Vincent

ATTEST:

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Town Clerk

9/28/2023 | 1:02 PM PDT

Date