



**TOWN OF LAUDERDALE-BY-THE-SEA
TOWN COMMISSION
MEETING MINUTES
Jarvis Hall
4505 Ocean Drive
Tuesday, January 23, 2024
6:30 PM**

1. CALL TO ORDER, MAYOR CHRIS VINCENT

Mayor Chris Vincent called the meeting to order at 6:30 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 Susan Trevarthen, 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, Assistant Finance Director Edner Saint-Jean, Senior Special Events and Marketing Coordinator Katie Anderson, and Town Clerk Katrina Adler.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION

Pauline Brooks McGuinness gave the Invocation.

4. ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS

None.

5. PRESENTATIONS

None.

6. PUBLIC COMMENTS

At this time Mayor Vincent opened public comment.

Ken Brenner, resident, recommended that during the Pompano Beach Fire Department (PBFD) report, the Commissioners request clarification of the number of residential and commercial fire calls in December 2023. He suggested that more detailed reports be requested to ensure the PBFD is properly and equitably collecting the fire assessment.

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Jennifer Smith, resident, suggested that it could make more sense for the Town Commission to address the Town Manager's contract after the pending municipal election, which would allow a new Commission to negotiate that contract.

Howard Goldberg, resident, encouraged all present to attend the Chamber of Commerce's annual fish fry on Friday, February 9, 2024 at the Plunge Hotel from 5 p.m. to 8 p.m. The cost is \$25 per ticket.

James Meade, resident, felt the Town should retain the Town Manager's services.

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

7. PUBLIC SAFETY DISCUSSION

a. BSO December 2023 Public Safety Report

Commissioner Oldaker requested clarification of the reason behind a reduction in traffic citations. Captain Bill Wesolowski of the Broward Sheriff's Office (BSO) replied that the decrease in December 2023 occurred for a number of reasons, including the holiday season. In addition, BSO is undergoing a personnel change among traffic Deputy leadership, and this training reduced the number of citations.

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

b. PBFD December 2023 Public Safety Report

Pompano Beach Fire Inspector Ashley Zalewski reported a total of 157 calls in December. The Department's response time averages four minutes and 52 seconds, which is a decrease from the previous month. There are still some delays in response due to the nature of calls, as not all calls involve medical emergencies or other circumstances that require the use of lights and sirens.

Vice Mayor Malkoon requested feedback on the PBFD contract and on working in Lauderdale-By-The-Sea in general. Inspector Zalewski replied that the transition has gone smoothly and she has had no complaints. Vice Mayor Malkoon emphasized that

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the PBFD is working to the limits of its contract and providing a high level of public safety.

PBFD Assistant Fire Chief Pete McGinnis added that a Community Emergency Response Team (CERT) will begin on March 27, 2024. Residents may join the PBFD's CERT staff. A Fire Station Open House is also scheduled for Saturday, January 27, 2024.

Mayor Vincent requested clarification of Pompano Beach's approval process for their contract. Assistant Chief McGinnis explained that before considering acceptance of the contract, the PBFD went before the Pompano Beach City Commission to ensure negotiations were allowed. That Commission was apprised of all aspects of the contract as the process moved forward, including costs. The contract was subject to the approval of the Pompano Beach City Manager and City Commission before coming back to the Town for final approval.

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

8. TOWN MANAGER REPORT

a. October 2023 Finance Report

b. November 2023 Finance Report

Assistant Finance Director Edner Saint-Jean presented the October and November 2023 Finance Reports, noting that General Fund expenditures exceeded revenues by approximately \$1 million, which was consistent with the Town's expectations. Other funds were consistent with expectations as well.

During November 2023, the Town collected \$200,957,154 in ad valorem taxes. Assistant Finance Director Saint-Jean advised that this number is expected to be higher in the December 2023 report. The Town received \$250,000 in its Fire Fund from fire assessment payments.

Parking revenues were below expectations in November 2023. The top-producing lots were A1A, El Prado, and the oceanfront lot. These numbers are expected to show an increase in the December 2023 report.

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Commissioner Oldaker asked if Staff has seen the expected December 2023 increase in the Town's bank reports. Assistant Finance Director Saint-Jean confirmed that this increase has occurred for both ad valorem and parking revenues.

c. Town Manager Report

Town Manager Linda Connors noted that the Town was featured on the cover of *Southern Living* magazine. A brief Instagram video from the magazine was shown. The feature is equal to approximately \$2 million in advertising.

Town Clerk Katrina Adler advised that a representative of the League of Women Voters is working to secure a moderator and timer for a candidate forum, at which time they will reach out to the Town to schedule the event at Jarvis Hall. The event would be listed on the Town's website and made available through local access television.

A Fire Department Open House is scheduled for Saturday, January 27, 2024. The Town and PBFd are partnering with the Chamber of Commerce for this event, which will last from 8:30 a.m. to 10:30 a.m.

The Town's first quarter (Q1) marketing report is available in the Commissioners' backup materials. The report shows engagement through more than 150,000 website page views and social media. The Downtown enhancement project received over 60,000 social media releases.

The Lauderdale-By-The-Sea Garden Club will hold a fundraising event on January 27, 2024 from 9 a.m. to 1 p.m. Proceeds will benefit the Wekiva Youth Camp.

The Friday Night Music Series will begin on Friday, January 26, 2024. Every fourth Friday will feature music Downtown from 6 p.m. to 10 p.m. in the El Mar Drive/Commercial Boulevard area.

The first digital edition of *Town Topics* has been delivered via email and is available on the Town's website. If residents would prefer to continue to receive a hard copy, they are asked to fill out a request form, which is also on the website.

A Special Magistrate hearing is scheduled for Thursday, January 25, 2024 at 5 p.m. The next Town Commission meetings will be held on February 13 and 27.

d. Pier Update

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Development Services Director Jhanelle Campbell reported that the Town has recently added a Frequently Asked Questions (FAQ) page to its website to provide basic information about Anglin's Pier.

At this time Mayor Vincent opened public comment.

Richard DeNapoli, resident, emphasized the Pier's importance to the Town.

Ann Marchetti, resident, hoped the Town will ensure a new structure meets coastal safety and environmental requirements as well as reflecting consistency with the Town's Midcentury Modern brand. She concluded that the Pier should be rebuilt as quickly as possible, either through private funding or a public-private partnership.

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

Robert Lochrie, counsel representing Fisherman's Pier, Inc., advised that the Pier's ownership has hired the Chappell Group, a Broward County engineering firm, as well as other local entities to begin the process of restoring the Pier. He assured all present that the owner's team is aware of the Pier's importance to Lauderdale-By-The-Sea.

Mr. Lochrie recalled that the Pier was substantially damaged by Hurricane Irma in 2017. In 2018 and 2019, permits were issued to begin restoration; however, the COVID-19 pandemic of 2020 and additional storms slowed the process further.

The Pier project will require substantial Town, County, state, and federal permitting. The project must receive a full review, analysis, and permit from the U.S. Army Corps of Engineers, which will process the permit in conjunction with the National Marine Fisheries Services, U.S. Fish and Wildlife Services, and the U.S. Departments of Commerce and the Interior.

In addition to federal permitting, the Florida Department of Environmental Protection must review the applications and issue permits for the project. The Broward County Resiliency and Environmental Department must also review permit applications and issue a permit. The Town will issue the actual building permit for the project after state, County, and federal permits have been issued.

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In July 2023, a benthic survey of the property was completed, which is the first step in compiling information for the permitting process. A final report was issued in August. Since that time, an engineering firm has undertaken review of the pier structure itself. This survey was completed in November 2023 and a full report submitted in December.

The Chappell Group and the owner's architects are working to redesign the Pier. These plans, and associated applications, are expected to be complete by the end of March 2024. This will allow the applications to be submitted to County, state, and federal entities by April, at which point those entities will begin their own review processes. The Chappell Group has estimated that the Army Corps of Engineers will issue public notice regarding these applications and begin coordination with the Departments of Commerce and the Interior by April 2025.

Once these entities have provided comments, the state of Florida will also hear public comments, which are anticipated in October 2025. Once all agencies have completed their review, the owner anticipates receiving permits from the Army Corps of Engineers, the state of Florida, and Broward County in April 2026. At this time, the owner will seek building permits from the Town so construction may commence in summer 2026.

Mr. Lochrie acknowledged that this is a lengthy process with a substantial amount of public input. The owner anticipates bringing proposals and plans back to the Commission before they are submitted to the appropriate agencies over the next few months.

Vice Mayor Malkoon asked if further deterioration of the Pier by future storms can be prevented over the next two years. Mr. Lochrie replied that the owner's team will continue to work with the Town's Building Department to determine if these measures may be taken. He asserted that it is the owner's intent to prevent the structure from additional damage.

Vice Mayor Malkoon also asked what the Town can do to help facilitate the permitting and repair processes. Mr. Lochrie advised that plans will be brought back before the Commission, and that any encouragement the Town may be able to give the County, state, and federal agencies could be helpful. He added that the owner plans to fund the Pier project.

Mayor Vincent requested additional information about the Town's place in the project's timeline. Mr. Lochrie estimated that permit applications would be submitted to the Town during the first quarter of 2026, with construction to begin by that summer.

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Mayor Vincent asked if the team anticipates any further delays aside from the normal application timeline. Mr. Lochrie replied that the biggest potential hurdles are delays at the governmental level and reiterated that the team felt the schedule presented to the Commission is realistic. Mayor Vincent encouraged the team to reach out to the Town's State Representatives and Senators as needed, as they may be able to help fast-track the process.

Commissioner Oldaker asked if Mr. Lochrie will serve as a "point person" to communicate with and organize the various parties involved in the process. Mr. Lochrie replied that he will be part of this process, while the Chappell Group expected to take the lead in dealing with agencies.

Commissioner Oldaker asked if it would be possible to post a timeline on the Town's website listing milestones and next steps. Mr. Lochrie confirmed this, adding that the team will work with the Town Manager on this effort.

Commissioner Oldaker requested additional information on how the process will be affected by the Pier's location in the ocean. Mr. Lochrie explained that the Pier is subject to a submerged land lease, which will need to be renewed with the state as part of the process. The structure itself is owned by Fisherman's Pier, Inc.

Mayor Vincent pointed out that because the Pier is a privately owned property, there are limits to what the Town can do to enforce any type of expedited process, particularly as state and federal governments are involved.

Commissioner Strauss recalled that following Hurricane Irma, there had been an effort to rebuild the Pier, with the Town Manager working with local and state representatives to assist in this process. He asked what had happened regarding those efforts, particularly whether or not they must begin all over again due to later damage to the structure.

Mr. Lochrie explained that after Irma, a concern had arisen regarding an environmental aspect of the repair process. A stop work order had been issued while the concern was addressed. There were then additional storms, as well as the pandemic.

Mr. Lochrie noted, however, that the past efforts to which Commissioner Strauss had referred dealt only with repairing certain elements of the Pier. The present state of the structure will require a more comprehensive effort and long-term solution.

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9. TOWN ATTORNEY REPORT

Vice Mayor Malkoon advised that he has heard questions from residents regarding the Live Local Act, which was passed by the Florida Legislature in 2023. He requested additional information on these concerns.

Town Attorney Susan Trevarthen explained that the Live Local Act was designed to advance the construction of affordable housing in Florida. This legislation affects applicants who wish to create a mixed-use project that includes 65% housing, of which 40% must be workforce or affordable housing. Another issue is where these types of developments can be located: they may be constructed within business, industrial, or mixed-use zoning districts.

Since the Live Local Act took effect, there have been inquiries regarding how that Statute can be interpreted with regard to the Town. Lauderdale-By-The-Sea does not have industrial zoning districts, but has B-1 and B-1-A Business zoning districts.

Town Attorney Trevarthen continued that it is her opinion that the Town's multi-family residential districts, including RM-25, would not qualify for projects under the Live Local Act, as that Act does not apply to residential zoning. An applicant hoping to build under the terms of the Live Local Act may not do so in a residential district. This means the only part of the Town where a developer could build this type of project is in the Business districts along A1A.

Town Attorney Trevarthen added that the Town's Charter limitation on height dates back to the 1970s and is mirrored in Code. The Live Local Act's preemptions allow a developer to "borrow" the height or density of another nearby property and move it into an area in which it is not normally permitted. The Town's height limits are even throughout the Town, which means there is no nearby height that can be borrowed.

Town Attorney Trevarthen concluded that should the Town receive an application under the Live Local Act, Staff would review it and apply the law accordingly; however, the Town is less exposed to the possibility of greater height than other local communities.

Vice Mayor Malkoon also requested that the Town Attorney address currently proposed legislation related to the Live Local Act. Town Attorney Trevarthen stated that when major legislation is enacted, it is common for the next legislative session, which is currently underway, to address any details of that legislation which may need further

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attention. A “glitch bill” addressing some aspects of the Live Local Act has already been brought forward for consideration. The bill is believed to be predominantly favorable to local government interests.

Town Attorney Trevarthen added that while all aspects of the glitch bill may not be applicable to Lauderdale-By-The-Sea, they may apply to neighboring Broward communities for various reasons. The bill appears to be responsive to the concerns of residents. It has been temporarily postponed, however, because another bill has been proposed with development interests in mind.

Vice Mayor Malkoon also noted that the Town’s lobbyists are working in its interests on this issue, as is the League of Cities. Town Attorney Trevarthen added that the Town’s administration has also focused closely on this issue.

Vice Mayor Malkoon addressed vacation rental properties, requesting a brief history of the Town’s regulations for these properties as well as what could potentially change. Town Attorney Trevarthen explained that in 2011, the Florida Legislature preempted local governments’ ability to control vacation rentals; however, Lauderdale-By-The-Sea had already created an Ordinance that enacted these regulations, which were grandfathered. These regulations applied to single-family homes and town homes.

Following the preemption, no action on vacation rentals could be taken for a number of years. Then, as many cities which had not enacted previous legislation expressed concern with the impact of vacation rentals on their communities, the Florida Legislature enacted new legislation in 2014 which permitted these properties to be regulated within limits, which included:

- Inability of local governments to control the duration of stays
- Inability of local governments to measure the frequency of rentals
- Inability of local governments to regulate the use in a manner which prohibited vacation rentals

The Town’s processes, which required the use of rental agents, compliance with noise regulations, and other basic regulations, still applied on a local level.

In the 2024 Florida Legislative Session, there is an effort to preempt all local regulation of vacation rentals. The current effort would preserve the rules grandfathered after 2011; however, after 2014, the Town enacted regulations for duplex, triplex, and quadruplex properties as a result of community interest. It is not yet known whether the currently proposed bill would invalidate or grandfather those regulations.

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The proposed bill also initially required all vacation rental fees to be no more than \$150 statewide; however, a modification changed this to “reasonable fees,” which means the Town may only establish fees that reasonably relate to the cost of the regulatory program.

Vice Mayor Malkoon asked if there are steps the Town can take to strengthen its existing vacation rental regulations. Town Attorney Trevarthen replied that at present, the existing rules constitute all the Town can do.

Town Manager Connors advised that there may be additional individuals who wish to provide public comment on the Pier issue. Mayor Vincent reopened public comment at this time.

Howard Goldberg, resident, asked if the Town has any involvement with the investors who purchased the Pier in 2023, and asked what options the Town is exploring at the County, state, or federal levels to expedite the permitting and repair processes without the use of taxpayer money.

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

Mayor Vincent noted that the processes related to the Pier were discussed earlier with the property owner’s representative.

10. APPROVAL OF MINUTES

None.

11. CONSENT AGENDA

a. 2024 Parking Permits for Turtle Monitoring Organizations

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

12. OLD BUSINESS

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- a. **Resolution 2024-01: “A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, APPROVING AND AUTHORIZING EXECUTION OF AN AMENDMENT WITH WASTE MANAGEMENT, INC. OF FLORIDA FOR BULK WASTE AND CONSTRUCTION AND DEMOLITION DEBRIS DISPOSAL SERVICES FOR A ONE-YEAR TERM; WAIVING THE REQUIREMENTS FOR COMPETITIVE SOLICITATION SET FORTH IN THE PURCHASING MANUAL; PROVIDING FOR IMPLEMENTATION, CONFLICTS, AND FOR AN EFFECTIVE DATE.”**

At this time Mayor Vincent opened public comment.

Ken Brenner, resident, noted that this Item will have significant impact on Town residents, and recalled that it has typically been subject to an open bid or contract. He requested additional information on the Item from the Commission.

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

Deputy Town Manager/Public Works Director Ken Rubach advised that Items 12.a and 12.b address the same issue from different angles. There are two components to both trash and recycling: one company picks up the trash, while the second transports it to a disposal site after it leaves the Town.

Deputy Town Manager/Public Works Director Rubach continued that the Town had a contract with Waste Connections of Florida, which was part of a cooperative bid involving several communities. Last year, however, it was determined that one of these communities would receive a particular rate and other communities would no longer be permitted to “piggyback” off that rate.

Deputy Town Manager/Public Works Director Rubach stated that Waste Connections indicated the Town no longer had a contract and its rate would increase significantly. He had suggested that, because the company was working on agreements with surrounding municipalities, the Town be allowed to continue at those rates while discussing a future contract. The company agreed to this, and the rate has been in effect since November 2023.

At present, each of the two companies, Waste Management and Waste Connections, both of which control transfer stations within Broward County, wishes to deal

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independently with the municipalities and give them separate rates without the availability of a piggyback option. Staff has worked with both entities, and a number of bids were sent to the two businesses from Broward communities, which are included in the Commissioners' backup materials. The Town requested the same rates that were given to the city of Oakland Park, although that is a significantly larger municipality than Lauderdale-By-The-Sea.

Deputy Town Manager/Public Works Director Rubach explained that the rate for Waste Connections applies to residential trash service. The company offered a bulk rate of \$61.50/ton, which is the rate the Town has been paying since November 2023. This represents a 49% increase. Waste Management's proposed rate for bulk pickup is \$54/ton, which is a 31% increase. The Town wishes to proceed with this lower rate.

Deputy Town Manager/Public Works Director Rubach further clarified that the first Resolution, 2024-01, applies to the bulk debris set out on the first Monday of each month, as well as any construction debris. The second Resolution, 2024-02, applies to everyday trash, which is picked up twice a week.

Commissioner Oldaker commented that participants in waste disposal have been narrowed down to the point of monopoly, which was demonstrated by the fact that the Town received no bids for the service. Deputy Town Manager/Public Works Director Rubach confirmed that other municipalities which previously participated in the cooperative also received no bids.

Commissioner Oldaker continued that the Town is currently participating, along with the Broward League of Cities, in a County-wide solid waste committee that is seeking to resolve this issue for all participating municipalities.

Commissioner Oldaker made a motion, seconded by Commissioner Strauss, to approve Resolution 2024-01. Motion carried 5-0.

- b. Resolution 2024-02: "A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, APPROVING AND AUTHORIZING EXECUTION OF AN AGREEMENT WITH WASTE CONNECTIONS OF FLORIDA FOR SOLID WASTE DISPOSAL SERVICES FOR A THREE-YEAR TERM; WAIVING THE REQUIREMENTS FOR COMPETITIVE SOLICITATION SET FORTH IN THE PURCHASING MANUAL; PROVIDING FOR IMPLEMENTATION, CONFLICTS, AND FOR AN EFFECTIVE DATE."**

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

Deputy Town Manager/Public Works Director Rubach explained that this Item addresses regular twice-weekly trash pickup. Waste Connections offers \$61.50/ton, which is what the Town is currently paying and was negotiated for a temporary rate. It represents a 34% increase over the previous contract. The rate offered for this service by Waste Management was \$80/ton, or a 74% increase. This is the reason the Town chose to split the two contracts.

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

13. NEW BUSINESS

- a. **Resolution 2024-03: A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, APPROVING THE TERMINATION OF MEMORANDUM OF POST CLOSING PAYMENTS FOR THE REAL PROPERTY LOCATED AT 4312 N. OCEAN DRIVE; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE TERMINATION AGREEMENT; PROVIDING FOR IMPLEMENTATION AND AN EFFECTIVE DATE.**

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

Town Manager Connors recalled that on July 13, 2022, the Town entered into a contract with Flamingo East to purchase the parking lot located across the street from Walgreen's. This added a total of 50 parking spaces to the Town's inventory. On January 9, 2024, the Commission voted to pay the remaining installment for this property immediately so the Town could eliminate further sharing of the lot's revenue. Once the termination is complete, the Town will receive 100% of the lot's revenue. It will also earn roughly \$100,000 by completing the payments early.

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

The following Item was taken out of order on the Agenda.

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c. Special Event Application: A1A Marathon, February 18, 2024

Senior Special Events and Marketing Coordinator Katie Anderson advised that Exclusive Sports Marketing has submitted a special event application to host a portion of the 2024 Publix Fort Lauderdale/A1A Marathon on Sunday, February 18, 2024. The event begins and ends at Fort Lauderdale Beach Park, with a portion of the race taking place within Lauderdale-By-The-Sea's boundaries on Ocean Drive/A1A, Palm Avenue, and El Mar Drive. This is the 19th year in which the Town has been included in the marathon's route.

The event will begin setup at 4 a.m., with the race officially beginning in Fort Lauderdale at 6 a.m. The first wheelchair participant is expected to cross into the Town's boundaries near approximately 6:20 a.m., followed by runners.

The Application includes the following requests:

- That the race course through the Town include the outside northbound lane of A1A starting at the Town's southernmost boundary; race participants will run east on Palm Avenue, then turn north on El Mar Drive up to Washingtonia Avenue, where the runners will then make a U-turn and run south on El Mar Drive; once at El Mar Drive/Palm Avenue, they will make another U-turn and run a second lap north to Washingtonia Avenue before heading south to conclude the race
- The north- and southbound inside lanes and parking spaces in single lanes at Anglin Square on El Mar Drive will be used as part of the race course; the Applicant has prepaid the parking fees for the affected parking spaces in the amount of \$1680
- Cones and signage indicating the race course along A1A, Palm Avenue, and El Mar Drive will be permitted within the Town and placed along the route by the Applicant

For groups of over 200, road closure fees are set by the Commission based upon purpose, number of attendees, and impact. In the past, the Commission has approved the reservation of the parking spaces, with the cost covered by the Applicant, and has not charged a fee for road closures. The Applicant has prepaid the \$100 application fee and the \$1680 total for the affected parking spaces.

Staff recommends the following:

- Approval of the Application for the 2024 A1A Marathon, with the conditions outlined in the event permit

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- Approval of the reservation of parking spaces and coverage of their cost by the Applicant
- Waiver of any charges for road closures related to the event

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

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

b. Resolution 2024-04: “A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, APPROVING AN AMENDED AND RESTATED EMPLOYMENT AGREEMENT BETWEEN LINDA CONNORS AND THE TOWN, ATTACHED HERETO AS EXHIBIT “A”; PROVIDING FOR REPEAL OF ANY CONFLICTING RESOLUTION, SEVERABILITY, AND FOR AN EFFECTIVE DATE.”

At this time Mayor Vincent opened public comment.

Ken Brenner, resident, stated that he was in favor of returning the Town Manager’s performance review to its previous timeline, which occurred before the Town’s budget hearings. He felt the increase of the Town Manager’s salary, benefits, and extension of the contract after the second year was not the correct decision.

John Keller, resident, advised that he felt the Town’s businesses are treated with greater importance than taxpaying residents due to the Downtown redevelopment. He recommended that the Commission consider whether or not the Town Manager’s compensation package is fair to the Town’s taxpayers.

Howard Goldberg, resident, expressed concern with the proposed contract, asking why the Commission was “in a rush” to extend it when the current contract runs through October 2024. He noted that a local election is upcoming and felt the contract should be considered by the next Commission.

Mr. Goldberg continued that the proposed Town Manager salary is 10% higher than what is paid by other municipalities of similar size. He requested that the Commission delay any vote on the contract.

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Ann Marchetti, resident, wished to know why the Commission would continue to go against residents' requests to lower taxes and reduce spending. She asked that the vote on the Town Manager's contract be delayed, adding that in a few weeks, up to three members of the current Commission may no longer serve.

Ms. Marchetti continued that the proposed salary and benefit package is greater than what any Town Manager should receive and would "lock in" a three-year contract, which previous Town Commissions fought to eliminate.

Mark Stern, resident, commented that this was an inappropriate time to discuss the Town Manager contract, which extends through October 2024. He requested that the Item be tabled and revisited at a later time with additional disclosure and public comment.

Ron Piersante, resident, observed that the Town Manager was hired at a low rate, and spoke positively about her service in that position. He felt most residents were happy with both the Town Manager and the Commission. He concluded that he was not in favor of waiting until the next Commission was seated to proceed with the Item.

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

Commissioner Strauss pointed out that if the Commission wished to renew its current agreement with the Town Manager, the agreement states they must do so no later than April 30, 2024. He added that the Town Manager has achieved significant success and met all of her goals, which he saw as compelling reasons to renew the contract and provide her with a fair salary and benefit package.

Commissioner Strauss noted the consistency and stability provided by the Town Manager, as well as effective project management, institutional knowledge, effective team leadership, adaptation to unique local needs, and long-term vision for the future.

Commissioner Strauss recalled that he had originally negotiated the Town Manager's original employment agreement. The renewal agreement offers a raise and benefits that are consistent with the Town Manager's abilities and consistent with other Broward municipalities' efforts to reward and retain top talent.

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Commissioner Strauss also acknowledged that South Florida's cost of living is approximately 30% higher than the rest of the state, and felt it would be unfair to compare the salaries and benefits of other Town Managers outside this region.

Vice Mayor Malkoon addressed the comments made regarding compensation, recalling that he had requested a survey listing all compensation packages of similar municipalities, and requested that Commissioner Strauss address how the proposed contract is consistent with those salaries.

Commissioner Strauss reviewed the Broward communities listed in the survey and the compensation packages they offer their Managers. Benefits in those communities may include car allowances, insurance, sick pay, vacation time, retirement, cost of living increases, and severance packages. He reiterated that he had proceeded cautiously when negotiating the original agreement due to concerns with previous Town Managers.

Vice Mayor Malkoon asked if the survey of other municipalities, or other Commissioners' or Town officials' experience, had included a per capita salary calculation. He noted that Staff has received a cost of living adjustment (COLA), which he felt should also be approved for the Town Manager.

Vice Mayor Malkoon continued that there may be details of which the public is not aware from the time before the Town Manager was appointed, which resulted in additional work to bring the Town back to its desired standard. He emphasized the importance of institutional knowledge and continuity in the position.

Vice Mayor Malkoon also asked the Town Attorney, whose firm had assisted in preparing the Town Manager's contract, for a brief history of how compensation for this position has changed as well as the more modern status of the current contract. Town Attorney Trevarthen explained that the 2010 municipal election resulted in a desire for change, which led to a messy transition related to the Town Manager at that time.

Town Attorney Trevarthen continued that in the Town Manager's contract following the difficult transition, an effort was made to place a monetary value on all attributes of the contract and include these attributes in the salary. She noted that there is nothing in the currently proposed contract which stands out from what is offered by other communities. There is also no per capita standard demonstrated by other communities.

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Commissioner Pouloupoulos observed that the proposed salary increase is consistent with that of other Town Manager salaries in South Florida and Broward County in particular, with more populous municipalities reflecting higher salaries. He also emphasized the deadline of April 30, 2024 for contract negotiation.

Commissioner Pouloupoulos continued that the proposed contract raises the Town Manager's salary from \$202,649.98 to \$221,293.78, which is a 9% increase. Both the previous and proposed contracts include a number of weeks' severance pay, which increases over the later years of the contract. There have been no substantive changes to the current contract, and if a new Commission wished to part ways with the Town Manager, they would still be able to do so.

Regarding the COLA, it was clarified that the Town Manager's contract states that position will receive this increase when it is also received by Town Staff. There is no annual COLA.

The proposed contract would provide the Town Manager with a car allowance, which is provided by a number of other Broward municipalities, as well as a phone and computer. The contract also includes a retirement raise, which is the only financially significant difference between the current and proposed agreements.

Commissioner Pouloupoulos emphasized the importance of goal 6.1 of the evaluation process, which he felt should be rewritten or implemented into the contract. He asserted that this would constitute an important leadership goal.

Mayor Vincent briefly reviewed his experience with previous and current Town management, emphasizing the importance of experience in South Florida. He noted that the most recent Town Manager evaluation proved the Commission had made the correct decision in promoting from within, and that the Commissioners' evaluations were similar in scoring.

Commissioner Oldaker made a motion to approve the contract as written.

Commissioner Pouloupoulos requested clarification of how the Commission would proceed in approving the contract with a future amendment related to performance goals, as mentioned earlier in his comments. Town Attorney Trevarthen replied that the Commission could agree to come back to that Item, but recommended that the Commission discuss the issue further.

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Commissioner Pouloupoulos advised that he favored a prospective action plan as suggested by goal 6.1. Commissioner Strauss stated that if an action plan is developed for the Town Manager, there should be a similar action plan for the Commissioners; however, he did not feel this was necessary, as the Commission has worked for the last two years without it.

Commissioner Pouloupoulos recommended the inclusion of wording that would put an action plan into place, possibly at the beginning of the next fiscal year. He concluded that he would like to see this goal implemented again in the future.

Town Attorney Trevarthen suggested that any changes to the contract preserve the statement which read "At the beginning of each fiscal year, the Town Commission and employee mutually agree on performance goals and objectives for the fiscal year, and may mutually agree to revise those goals and objectives during the year." The next sentence would be struck, and the following sentence would read "Those goals shall be reasonably attainable within the time constraint set, and adequate operating budgets or capital appropriations shall be funded to enable its accomplishment." Both of these sentences would remain valid without an action plan mechanism.

Commissioner Pouloupoulos advised that while he was comfortable with the removal of the middle sentence, he felt there should be a requirement of communication of the Commission's goals at the beginning of each year.

Town Manager Connors stated that strategic planning is included in this year's budget, and the current Commission had felt it would be wise to wait until the new Commission is seated to move forward with that planning. She expressed concern, however, with waiting until the beginning of the next fiscal year to proceed, as the Town's budget is already established by that time. She suggested that the budget process include work toward the establishment of these goals.

Town Manager Connors continued that she has used the budget process as a guide for a strategic plan, which means if the Commission wants a particular goal accomplished, they are certain to fund that goal within the budget.

Commissioner Pouloupoulos further clarified that his intent was to include written goals so the public is aware of what the Commission hopes to accomplish. Town Attorney Trevarthen proposed including a reference to this as an annual process, which would allow the Commission to determine the time at which it is addressed.

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Commissioner Oldaker amended his motion as follows: **motion to approve the contract and restore the first and third sentences of Section 6.1 of the existing contract, with removal of reference to the action plan and a change to the initial clause so it happens annually rather than at the beginning of each fiscal year.**

Town Attorney Trevarthen added that cross-references would be updated to reflect the restoration of Section 6.1.

Commissioner Poulopoulos seconded the amended motion. Motion carried 5-0.

14. COMMISSIONER COMMENTS

None.

The Commission took a brief recess from 9:17 p.m. until 9:32 p.m.

The following Item was taken out of order on the Agenda.

17. RESOLUTIONS – PUBLIC COMMENTS

- b. Resolution 2024-06: A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AUTHORIZING PARTICIPATION IN A LAWSUIT SEEKING A DECLARATION THAT THE PROVISIONS OF SECTION 112.144(1)(d), FLORIDA STATUTES, THAT REQUIRE MUNICIPAL ELECTED OFFICIALS TO FILE FORM 6 FINANCIAL DISCLOSURE FORMS IS UNCONSTITUTIONAL AND INVALID. PROVIDING FOR IMPLEMENTATION AND AN EFFECTIVE DATE.**

At this time Mayor Vincent opened public comment.

John A. Graziano, resident, commented that the state of Florida, in an attempt to apply universal rules for transparency, has created a form which he described as onerous. He also noted that there are information technology shortcomings with the requirement as well.

Howard Goldberg, resident, stated that any candidate should release financial information to demonstrate transparency. He added that the class action suit cited in the

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Resolution would require the payment of a \$10,000 fee, which he found unacceptable. He emphasized the importance of transparency by candidates and elected officials.

Ann Marchetti, resident, advised that she did not support the Statute in question, and that candidates and elected officials should be able to continue to file a statement of economic interest in order to reduce potential conflicts of interest, as was previously done using Form 1. She also wished to know what other steps the Town has taken to rectify this situation before engaging in the lawsuit.

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

Town Attorney Trevarthen explained that the proposed lawsuit was brought to her firm by a number of municipal clients. She emphasized that while she is not recommending that the Town join the suit, the municipalities involved have asked that all other cities be given the opportunity to decide whether or not to join the challenge.

The basis of the challenge is twofold: first, when the state made the change to apply Form 6, they violated longstanding law regarding the alteration of terms and conditions which apply to an individual's elected term of office "midstream" during that term. There is also an argument to be made under the Florida Constitution's right to privacy and free speech protections.

Town Attorney Trevarthen added that her firm has identified Form 6 as the most onerous financial disclosure in the United States, with no other federal or state office requiring disclosures of the same level of detail.

Town Attorney Trevarthen reiterated that joining the suit would be entirely voluntary. Each participating municipality is charged a fixed fee, and if individual elected officials wish to be named as plaintiffs, this would be part of the same arrangement.

Commissioner Oldaker asked if it would be possible for the Town to join the suit at any time. Town Attorney Trevarthen replied that the Commission could defer the decision on whether or not to participate. She added that in the past, when challenges have been brought forward in the names of both local governments and individual elected officials, courts have found that the relief only reaches the named plaintiffs. Regardless, the firm would argue that all parties affected by the change to Form 6 would be similarly situated and should all receive relief. It is possible that if the Town or an individual or individuals

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do not join the suit, they would not receive the benefit of relief given, as demonstrated by precedent.

Commissioner Poulopoulos stated that while he did not like this requirement, he respected the transparency it represented, and noted that he would be happier with a middle ground between Form 1 and Form 6.

Commissioner Poulopoulos continued that he intended to file Form 6 in accordance with the law, and hoped for the success of the lawsuit; however, he did not feel the participation fee constituted the best use of taxpayer dollars, and would not be in favor of the Resolution.

Commissioner Strauss stated that he was also not in favor of Form 6, which he felt was a significant overreach. He asked if participation in the suit by an individual would stay the requirement that they file Form 6 until the outcome of the case has been determined.

Town Attorney Trevarthen clarified that effective July 1, 2024, individuals who are in office will need to file Form 6, which permits the same 90-day grace period as Form 1. The suit will request declaratory and injunctive relief, which would take the form of a court order stating the Statute is flawed and there is no need to comply. She cited a similar lawsuit in the past which addressed a Constitutional amendment, recalling that those plaintiffs ultimately received an injunction which stayed the applicability of that amendment. The ruling in that case was limited to named plaintiffs only.

Commissioner Strauss also noted that there are questions regarding issues of confidentiality, which would affect individuals who have trust accounts or are representing clients. Town Attorney Trevarthen replied that both the Florida Commission on Ethics and the Florida Legislature have indicated they did not understand this to be a problem. These entities are processing the rulemaking in an attempt to resolve this issue.

Commissioner Strauss advised that he had originally requested placement of this Resolution on the Agenda for further discussion so he could hear other parties' opinions on the issue.

Vice Mayor Malkoon stated that the proposed lawsuit had been discussed by the Broward League of Cities. He requested clarification of how many entities are currently participating in the suit. Town Attorney Trevarthen replied that 14 cities have signed

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onto the suit thus far, and the effort to ensure that all municipalities are aware of it began within the last two weeks.

Vice Mayor Malkoon commented that while he understood the nature of objections to the Statute, he also recognized the importance of transparency in government, and concluded that he did not anticipate the Town would join the suit.

Mayor Vincent observed that the Statute in question has not deterred candidates for office in Lauderdale-By-The-Sea and currently remains the law. He continued that although the start date for the requirement of Form 6 is July 1, the period for which that form is required dates back to January 1, 2024. Town Attorney Trevarthen confirmed this, noting that over 100 elected officials in the state of Florida resigned prior to December 31, 2023 for various reasons relating to the new disclosure requirement.

Town Attorney Trevarthen further clarified that if there is no motion made on this Resolution, it would die.

No motion on the Resolution was made.

15. ORDINANCES 1ST READING

- a. **Ordinance 2024-01: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING ARTICLE I "IN GENERAL," SECTION 17-14 "PERSONS WHO MAY USE TENNIS COURTS; ACCESS TO TENNIS COURTS; ISSUANCE OF KEYS; FEES" OF CHAPTER 17 "STREETS, SIDEWALKS AND OTHER PUBLIC PLACES" TO CLARIFY THE TOWN HAS A PICKLEBALL COURT AND TO INCORPORATE THE TOWN'S TENNIS / PICKLEBALL COURT RULES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

At this time Mayor Vincent opened public comment.

Howard Goldberg, resident, advised that he did not believe Town residents should have to pay a fee to use the Town's tennis or pickleball courts. He noted that these courts provide a social area for residents. He did not oppose charging a fee to non-residents.

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

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Assistant to the Town Manager Courtney Easley explained that Ordinance 2024-01 would address the rules of play on the Town's tennis and pickleball courts, particularly with respect to coaching on those courts. Current rules require that rule violators may be suspended from using the courts; however, Staff has encountered challenges in the enforcement of those rules, as there are no codified rules, established penalties, or processes for suspending use of or revoking keys to the courts. The proposed Ordinance will resolve these issues by allowing Code Officers to issue citations to any individuals found coaching on the tennis courts.

Assistant to the Town Manager Easley explained that in recent months, residents have raised concerns about coaching issues after encountering coaches on the courts for long periods of time, training multiple clients. When Staff observed this as well, they reminded coaches that coaching is not allowed; however, there was not always compliance with this prohibition.

In December 2023, Town Staff hosted a meeting where residents were allowed to provide feedback. Roughly 20 individuals attended this meeting. Several recommendations were made, although the primary topic was coaching. Recommendations included posting signage stating the rules inside the tennis area, installing a new entry locking system, increasing the maintenance of nets, exploring the use of a reservation system, and prohibiting animals on the court.

Assistant to the Town Manager Easley advised that some of the recommendations may be addressed at this time, while others will require additional research and discussion with the Commission. The proposed Ordinance will allow for better enforcement, including allowing Code Officers to issue citations to anyone found coaching on the Town's tennis courts or violating other rules.

If Ordinance 2024-01 is approved on first reading, its second reading would be scheduled for February 27, 2024.

Commissioner Pouloupoulos described the Ordinance as "nitpicking," and stated that while he was in favor of prohibiting coaching or other business purposes on public courts, he did not want to over-regulate use of the Town's courts by issuing citations for minor problems. He also agreed with public comment regarding fees, and requested clarification of the amount spent on tennis/pickleball court maintenance on an annual basis so it could be determined if fees were necessary to fund this maintenance.

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Deputy Town Manager/Public Works Director Rubach advised that there are substantial maintenance costs related to resurfacing and lighting of the courts, although these costs are not annually budgeted. Key fees serve to defray a portion of these costs, but do not cover all costs.

Commissioner Pouloupoulos advised that residents' taxes should cover their fees. He was in favor of a key system for non-residents, which should supplement maintenance costs.

Deputy Town Manager/Public Works Director Rubach noted that residents have reached out to Town Staff to mediate issues related to the use of courts, which has led to heated exchanges and threats.

Town Manager Connors clarified that some property owners provide coaches with keys to the courts, and those coaches may use both courts for coaching. There have also been instances in which a coach was very disrespectful to Town Staff. The intent of the Ordinance is to create a means to address this situation.

Town Manager Connors continued that if there is not a problem, and no individuals are waiting to use the courts, there is no need for Town Staff to intervene. If a paid coach is coaching on the court for hours at a time, however, the Town needs an instrument to address the issue. She added that some residents have indicated they do not want to interact with at least one individual who is using the Town's courts as a vehicle to coaching income.

Commissioner Pouloupoulos reiterated that while he agreed with the prohibition of coaching, he was not in favor of residents paying for keys to the courts. He also agreed with a prohibition on animals on the courts, but did not agree with limiting the number of hours a resident may play.

Town Manager Connors pointed out that there are constant complaints that some individuals are monopolizing the courts. She noted again that Staff is seeking a way to address this problem, rather than to arbitrarily enforce regulations.

Commissioner Strauss also felt there should be no coaching permitted on Town courts; however, he expressed concern with how to determine who may be coaching, as well as how to ensure individuals are aware of whether or not they are violating the proposed Ordinance. He did not disagree with limiting use of the courts if others are waiting for them.

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Commissioner Strauss continued that he felt the key fee is fair, as it costs the Town money to issue keys. He concluded that coaching should be prohibited if language to that effect can be crafted.

Mayor Vincent observed that BSO will need to be involved with any enforcement of rules, as issuance of citations is a law enforcement rather than a Code Enforcement issue. Tracking of keys each year is also required, although he did not have a preference of whether or not to issue a key or court fee. He noted that it can be difficult to regulate whether or not a resident may loan their key to another party, which may include a coach. If there is no system for monitoring keys, there could be an influx of individuals wanting to use the Town's courts for free.

Mayor Vincent continued that the Town reserves the right to check a user's key at any time if they feel there may be abuse of the existing system. He was not certain that he could vote in favor of Ordinance 2024-01 as it is written.

Vice Mayor Malkoon suggested that a keyless access card containing a resident's information could be a potential solution, as the card code could be changed annually without reissuing the key. Assistant to the Town Manager Easley advised that Staff plans to propose a fob system as part of the 2024-2025 budget discussion, as this system will allow the Town to track use of the courts more accurately. A violator's card could also be deactivated in lieu of writing a citation.

There was consensus among at least three Commissioners to charge no fee for use of the courts.

It was determined that the Item would be deferred to a later date.

16. ORDINANCES 2ND READING

- a. **Ordinance 2023-07: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 30 "UNIFIED LAND DEVELOPMENT REGULATIONS," ARTICLE I "IN GENERAL," SECTION 30-11 "DEFINITIONS" AND ARTICLE V "ZONING," SECTION 30-311 "BOATS, BOAT LIFTS, BOATHOUSES, MOORING, AND DOCKING" AND PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.**

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

Development Services Director Campbell explained that this Ordinance was presented for first reading on October 17, 2023 and proposes the following changes to Code:

- Removes the requirement for navigational channels to be the center 40% of the width of the waterway
- Extends the allowance for boat lifts to protrude into the waterway from 20% to 25% as measured from the recorded property line
- Relocates setbacks for marine structures in waterways over 100 ft. wide

These changes will provide greater flexibility for residents seeking to install boat lifts on their docks while ensuring the preservation of a sufficiently navigable waterway. The Ordinance was recommended for approval on first reading by a vote of 5-0.

Development Services Director Campbell noted an additional change required for consistency: the Section addressing dolphin piles does not include parameters for where these structures can be placed within the channel. The language referenced in lines 106-107, which would state dolphin piles may not extend more than 25% into the width of the waterway, would need to be included.

Commissioner Oldaker asked how Ordinance 2023-07 would affect the canal on the east side of the Terra Mar neighborhood, where 45 ft. boat slips are currently being sold on the Pompano Beach side of that waterway. Development Services Director Campbell replied that Staff plans to reach out to Pompano Beach to clarify that city's plans to ensure a navigable waterway. She will bring this information back to the Commission.

Commissioner Strauss requested additional information on what constitutes a minimum navigable waterway. Tyler Chappell, representing the Chappell Group, marine contractor, advised that Pompano Beach allows a minimum of 40 ft. for their navigable channel, which would allow for safe ingress/egress.

Mayor Vincent asked if there are any concerns related to the riparian rights of property owners in the subject area. Mr. Chappell noted that there is a provision in Town Code which allows the City to use its discretion on the riparian rights at the end of a canal, or where a marina exists.

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

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17. RESOLUTIONS – PUBLIC COMMENTS

- a. **Resolution 2024-05: A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA AMENDING THE 2023 / 2024 FISCAL YEAR BUDGET IN ACCORDANCE WITH THE ATTACHED EXHIBIT “A,” AUTHORIZING APPROPRIATIONS AND EXPENDITURES IN ACCORDANCE WITH THE 2023 / 2024 FISCAL YEAR BUDGET AS AMENDED; PROVIDING FOR CONFLICTS AND AN EFFECTIVE DATE.**

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

Director of Budget and Finance Lucila Lang explained that Resolution 2024-05 updates the fiscal year (FY) 2023/2024 budget to appropriate funds for the final \$1.6 million payment mentioned earlier in Resolution 2024-03. The amount previously budgeted for this expense had been \$800,000.

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

18. QUASI JUDICIAL PUBLIC HEARINGS

None.

19. ADJOURNMENT

With no other business to come before the Commission at this time, the meeting was adjourned at 10:28 p.m.



Mayor Chris Vincent

ATTEST:

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Katrina Adler, Town Clerk

3/18/2024 | 7:22 AM PDT

Date