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

1. **CALL TO ORDER, MAYOR EDMUND MALKOON**

Mayor Edmund Malkoon called the meeting to order at 6:30 p.m. Also present were Vice Mayor Randy Strauss, Commissioner Richard DeNapoli, Commissioner John A. Graziano, Commissioner Theo Poulopoulos, Town Manager Linda Connors, Town Attorney Susan Trevarthen, Deputy Town Manager/Public Works Director Ken Rubach, Development Services Director Jhanelle Campbell, Director of Budget and Finance Lucila Lang, Assistant Finance Director Edner Saint-Jean, Events and Marketing Manager 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 Malkoon opened public comment.

Spiro Marchelos, 2 Commercial Boulevard, addressed the Anglin's Pier sign previously located on A1A and Commercial Boulevard, which was temporarily removed in November 2023. He requested that the replacement of this sign be discussed at tonight's meeting or on a future Agenda.

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Phil Morse, resident, advised that there is inadequate parking where he lives on the south end of Bougainvilla Drive. The parking contractor's overnight parking policy only extends until 8 a.m., which does not consider the needs of local residents in that area and results in their being ticketed. He asked if residents' needs can be taken into consideration by this policy.

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

7. PUBLIC SAFETY DISCUSSION

a. BSO February and March 2024 Public Safety Report

Captain Bill Wesolowski of the Broward Sheriff's Office (BSO) noted that Traffic Deputy Mike Kratz retired in February 2024 after 36 years of service. He was replaced by Deputy Claudio Reis, who will address any traffic issues in the district. There are currently three speed message boards deployed throughout the Town.

Deputy Rene Suarez was named Deputy of the Month in February 2024, and Sergeant Craig Bachan was Employee of the Month in March 2024.

Captain Wesolowski advised that BSO's planning and enforcement efforts were successful with regard to spring break 2024. While there was increased visitor traffic, the addition of dedicated patrols and beach enforcement helped address potential dangers. An additional deputy was added on weekend nights for enhanced visibility, and regional traffic enforcement provided assistance during the days.

The following enforcement occurred during spring break:

- 135 traffic citations
- 2 arrests for driving under the influence (DUI)
- 2 arrests for driving with suspended licenses
- 1 arrest for failure to appear on a grand theft charge
- 1 petty theft
- 1 burglary conveyance

Commissioner Poulopoulos noted that the March 2024 report refers to the use of all-terrain vehicles (ATVs) by Deputies for 637.5 miles and over 100 hours. Captain Wesolowski clarified that these figures were for the beach only. Deputies visited the beach multiple times during their shifts, and dedicated personnel patrolled the beach on

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weekends. Weekend patrols were funded using overtime, while weekday patrols were made by Deputies who took time from their regular duties to periodically patrol the beach.

Commissioner Graziano stated that he has discussed a U-turn at A1A and Commercial Boulevard with Captain Wesolowski, as this has been an area of concern. BSO will work with the Florida Department of Transportation (FDOT) to gather information on how often these turns are made. Captain Wesolowski added that BSO will also check data to determine how often U-turn crashes have occurred at that location.

8. TOWN MANAGER REPORT

a. Town Manager Report

At this time Mayor Malkoon opened public comment.

Ann Marchetti, resident, congratulated the Town on securing a $200,000 grant for a vulnerability assessment, and recommended that this assessment include resident input. She also applauded Town Staff on the recent Taste of the Beach event, and suggested that there be no charge to residents for the upcoming Founders' Day Picnic.

Ms. Marchetti also complimented Circuit service and proposed that this be provided to residents at no charge and to out-of-town guests for a small fee. She concluded by encouraging the Town to forgive the sidewalk café fees for the third quarter of 2024 and revisit the fee schedule in support of businesses.

Town Manager Linda Connors reported that former Town employee Jonas Brewton recently passed away. The Town will be in touch with his family regarding any planned services.

Lauderdale-By-The-Sea has been listed in *Southern Living* magazine as one of the best "Girlfriend Getaways on the Coast," and in *USA Today* as an entrant in a poll of the best beaches. Voting is open each day, and a link will be posted on the Town's website and social media.

Many of the Town's fiscal year (FY) 2024 grant applications are currently awaiting the Governor's signature for funding. These include a vulnerability assessment grant for $200,000, which may open additional opportunities for grant funding upon completion. The Town is still awaiting state approval for grants addressing tidal flood protection,

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beach portal design, funding for Friedt Park, improvements to the Town Hall complex, renovation of the Community Center kitchen, Friday Night Music, and design funds for the public safety building. The Town has also applied for a grant from the American Association of Retired Persons (AARP) to fund an additional mobility mat on the beach.

Town Manager Connors recognized Assistant to the Town Manager Courtney Easley for her work in coordinating grant funding.

A Founders' Day Picnic is planned in celebration of the Town's 75th anniversary. Town Manager Connors requested Commission consensus on a date for this event, noting that it may be difficult to schedule this event later than October due to the holidays. It was determined that the picnic would be planned for October 5, 2024, with a potential backup date of the first weekend in November.

Town Manager Connors continued that the Town has been disappointed with the Broward County transportation surtax grant program, despite efforts by Deputy Town Manager/Public Works Director Ken Rubach to work with the County to make changes to that program. An amendment is anticipated which would provide communities with more options for surtax funding applications. The Town has requested that surtax funds be permitted for use in covering microtransit costs, as well as to allow for roadway infrastructure repair and maintenance as a funding category. The County appears to be supportive of both these requests, and if amendments are approved, they would apply to the FY 2025-2026 surtax funding cycle.

Circuit served over 8600 riders in March 2024 and continues to be a popular transportation option for residents and guests. Circuit has entered into an agreement with the city of Fort Lauderdale in the Galt and Coral Ridge Mall areas, which permits Lauderdale-By-The-Sea riders to access those areas.

Upcoming meetings include:

- Planning and Zoning Board meeting: Wednesday, May 1, 2024
- First budget workshop: May 14, 2024 at 5 p.m.
- Regular Town Commission meeting: May 14, 2024
- Code Compliance meeting: May 23, 2024

Mayor Malkoon requested clarification of when discussion of the Anglin's Pier sign will come before the Commission. Town Manager Connors stated that she is working with an attorney to determine when he will be available to provide an update on the Pier, at which time there can be further conversation about relocation of the sign. Mayor

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Malkoon requested that this discussion be an Agenda Item for the May 14, 2024 meeting.

Mayor Malkoon also asked if Town Staff can address the parking situation on Bougainvilla Drive with the Parking Department. Town Manager Connors replied that a comprehensive look at overnight parking in that area will be brought before the Commission for further discussion. The time frame for overnight parking will be included in this item.

Commissioner Poulopoulos recalled that reconstruction of Friedt Park was part of the previous year's budget discussions and asked where the Town stands with regard to design and construction. Town Manager Connors stated that she, Deputy Town Manager/Public Works Director Ken Rubach, and Assistant to the Town Manager Courtney Easley have met with the designer of this project, as well as with the committee overseeing the improvements. While the original design was rejected as substandard, Town Staff has recently identified a design that meets their standards. They are awaiting a final draft, after which they will meet again with the committee. She anticipated bringing the design before the Commission for their approval in June 2024. The design will include shade sails.

b. Business Outreach Team Report

Town Manager Connors advised that the Business Outreach Team delivered spring break safety cards to 26 of the Town's hotels and vacation rental properties. The cards included information on amplified music, alcohol consumption, prohibition of digging on the beach, and a warning that no lifeguards are posted.

The team has also worked with the Fire Inspector to address the layout of sidewalk cafés and their furniture arrangements. The Development Services Department has met with Downtown businesses to execute sidewalk café and outdoor dining agreements. Only four Downtown businesses have not yet updated their agreements.

9. TOWN ATTORNEY REPORT

Town Attorney Susan Trevarthen stated that there is only a minimal amount of information in the Town's Charter regarding the Charter review process. It clarifies that the terms and provisions of the Charter shall be reviewed no less often than every 12 years. At the time of the previous review, the Commission chose to seat a Charter Review Board, which was charged with reviewing the entire document as well as

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specific questions with which the Commission had concerns. The process took approximately 15 months.

There are specific rules related to when changes to Charter Section 7.1 may go on a public ballot. The previous Charter Review Board made its recommendations to the Town Commission, which accepted some of these proposals in October 2013 and placed them on the ballot for March 2014. They chose not to proceed with other suggestions made by the Board.

Town Attorney Trevarthen emphasized that the Commission controls this process and is empowered to make policy decisions on the formation of the Charter Review Board, its scope of review, and the time frame in which it should meet.

Town Attorney Trevarthen continued that the Broward County Supervisor of Elections must agree to the placement of any items on the Town's ballot. The deadline for inclusion on the November general election ballot is June 10, 2024. If the Commission knows what they would like included, they can ask the Town Attorney for the first reading of an Ordinance at the May 14, 2024 meeting, with a second reading scheduled for the second May meeting; however, it is not feasible to expect the Charter Review Board process to be complete within so short a time frame. It was also acknowledged by the previous Town Commission that a new Commission should be seated before beginning the Charter review process.

Town Attorney Trevarthen recalled that Section 7.1 of the Town's Charter addresses land use, which was the subject of significant discussion during the previous Charter review. If the Commission wishes to place changes to Section 7.1 on the ballot, the earliest option after November 2024 would be March 2026. The Charter is more flexible in allowing votes on issues outside Section 7.1, and includes options such as a special election, although it was noted that this would be more costly to the Town. No general elections are scheduled in 2025.

Town Attorney Trevarthen continued that October 2013 was the last time an Ordinance was brought forward regarding Charter ballot questions. This was approximately six months in advance of the March 2014 election.

Commissioner DeNapoli requested feedback from the other Commissioners on a ballot measure which would allow the voters to decide whether or not they would like to move Town elections to November rather than March. He pointed out that this would help the Town realize cost savings. In addition, there is usually 75% to 80% turnout for

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November elections, while March elections typically fluctuate between 20% and 40% turnout.

Commissioner DeNapoli suggested that the Commission either vote or provide consensus on whether or not to propose a Charter Amendment via Ordinance and ballot measure, pursuant to Florida Statute 166.031 as well as the Attorney General's opinion of 2013-05. This would allow for the placement of a ballot question on the Town's November 2024 ballot.

Commissioner DeNapoli added that 22 other Broward municipalities have already voted to take this step in order to increase voter participation and save money. Approval of the change would ultimately be decided by the Town's voters. He emphasized that consensus at today's meeting would only ensure that an Ordinance be presented for first reading at the May 14, 2024 meeting.

The Commission discussed the proposal, with Commissioner Poulopoulos agreeing that the Town should take steps to save election costs and encourage voter turnout. He asked if Commissioner DeNapoli is permitted, as a Commissioner, to propose an Ordinance himself and bring it forward at the next meeting even if the full Commission does not agree to it by consensus.

Town Attorney Trevarthen stated that the Town has generally followed a process of raising ideas through Agenda Items to determine whether or not the Commission wishes to see an item placed on a future Agenda. If it is the will of the Commission, however, to proceed as Commissioner Poulopoulos described, this could also be done.

Vice Mayor Strauss requested clarification of the reason for any urgency behind the proposed Charter amendment. He also asked how much money is spent on March elections, recalling that some of these local elections have been very limited in scope. He agreed that the proposal is sensible, but wished to see more information.

Mayor Malkoon explained that the reason for urgency would be the June 10, 2024 deadline for inclusion of a ballot question on the November 2024 ballot. Town Attorney Trevarthen reiterated that the next opportunity to bring the ballot question before voters would be March 2026 unless the Town decided to proceed with a special election, for which they would pay 100% of the costs.

Town Attorney Trevarthen also confirmed that if the ballot question appears on the November 2024 ballot and passes, the next Town election would be November 2026

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rather than March 2026. This change has extended the terms of office of elected officials in other Broward communities.

Vice Mayor Strauss requested clarification of the costs associated with special and general elections to determine what the cost savings of a change may be.

Commissioner Graziano stated that he felt voter participation was more important than the costs of elections. He was supportive of moving forward in a timely manner with the proposed Ordinance.

Mayor Malkoon concluded that there was Commission consensus to have Staff bring forward a proposed Charter amendment for first reading at the May 14, 2024 meeting. He also wished to see the costs associated with elections, as requested by Vice Mayor Strauss.

It was clarified that the cost of the March 2024 election to the Town was just under $4000. This was because the election was scheduled on the same date as the presidential preference primary. Information on the prospective cost of an election solely funded by the Town can be requested from the Supervisor of Elections' Office. It was also noted that the Town had budgeted roughly $20,000 for its March 2022 election.

Commissioner DeNapoli asked if there are sufficient Town Commission meetings scheduled to hear two readings of the proposed Charter amendment before June 10. Town Manager Connors replied that the Town typically schedules one meeting between the first and second readings of an Ordinance; however, this would not be possible if the Commission wished to proceed with the readings before the June 10 deadline. She pointed out that this practice has been policy rather than a requirement.

10. APPROVAL OF MINUTES

a. Approval of Minutes for the April 2, 2024 and April 9 Special and Regular Meetings

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

11. CONSENT AGENDA

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a. Resolution 2024-10: A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, APPROVING AND AUTHORIZING THE APPROPRIATE TOWN OFFICIALS TO EXECUTE A STATEWIDE MUTUAL AID AGREEMENT FOR DISASTER ASSISTANCE WITH THE FLORIDA DIVISION OF EMERGENCY MANAGEMENT; PROVIDING FOR EXECUTION, IMPLEMENTATION, CONFLICTS AND AN EFFECTIVE DATE.

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

12. OLD BUSINESS

a. Sandcastles for Sloan Campaign

At this time Mayor Malkoon opened public comment.

Ann Marchetti, resident, addressed Items 10.a and 10.b, asking if there will be increased beach patrols year-round as well as during spring break. She emphasized the importance of signage on the beach informing visitors of restrictions on digging holes in the sand.

Ms. Marchetti continued that many residents have indicated a desire for a compromise, such as increased beach patrols on all the Town's beaches and consideration of employing lifeguards on the beaches north of El Prado Park and Anglin's Pier. She recommended that the Town schedule a workshop at which residents can provide feedback to the Commission.

Hayley Zagacki, representing Conceptual Communications, gave a presentation on the Sandcastles for Sloan Beach Safety Campaign, which was borne of the Mattingly family's request that something positive be created in memory of their daughter. Their feedback has been incorporated into the proposed program, including campaign materials which will be used in the Town and shared with other coastal communities.

The toolkit for the campaign includes print and digital assets such as beach signs, fliers, social media messaging, graphics, educational videos, and promotional materials. Physical items include a sandcastle mold, as well as fliers with sand safety tips urging beachgoers to build sandcastles instead of digging holes.

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If approved, Conceptual Communications will work with the Town's hotels, businesses, and Visitor Center to launch the campaign. State Representative Chip LaMarca, State Senator Jason Pizzo, and Visit Lauderdale have expressed interest in sharing the campaign statewide. The toolkit can also be shared with other coastal communities nationwide through various associations and groups. There is a version of the toolkit specific to Lauderdale-By-The-Sea as well as a version which can accommodate branding from other municipalities.

Commissioner Graziano asked if the toolkit will be provided to other communities at no charge. Ms. Zagacki confirmed this, adding that creation of the materials was included in Conceptual Communications' regular scope of work for the Town. Commissioner Graziano recommended that all Town signage and materials include emergency phone numbers. He was not certain that it should be provided to other municipalities for free.

Mayor Malkoon observed that undertaking the campaign for Lauderdale-by-The-Sea, as well as providing the materials to other coastal communities, was very important and can be provided as a community service. Vice Mayor Strauss agreed that the program is a fitting tribute.

Town Manager Connors requested Commission consensus on whether or not to move forward with sharing the materials at a cost or at no charge. Commissioner Poulopoulos asked for further clarification on which materials would be disseminated to other municipalities.

Ms. Zagacki explained that the materials which are available for sharing include the program's flier, which has already been designed. No physical fliers would be sent to other communities. Town Manager Connors added that the Town does not plan to share its sandcastle molds or building materials, but only digital files.

Commissioner Graziano commented that other municipalities may want to take advantage of the work done for Lauderdale-By-The-Sea and felt a small fee could be charged. Alternatively, a 501(c)3 could be established and the Town could contribute a portion of any fee to that nonprofit.

Commissioner DeNapoli asked if the sandcastle molds will be for sale. Ms. Zagacki advised that this is still under discussion: the intent of her presentation was to show the Commission the design on which Conceptual Communications had collaborated with the Mattingly family and to seek consensus on that work.

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Town Manager Connors further clarified that Staff is looking for approval of the digital campaign. The decision of whether and how a physical merchandise component should be included can come at a later time.

Commissioner Poulopoulos stated that he supported the digital design, with further details to come later. Commissioner DeNapoli also advised that he approved the design, as did Mayor Malkoon.

b. Ordinance 2024-04: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 5 "BEACHES AND WATERWAYS," ARTICLE II "BEACH REGULATIONS" OF THE TOWN CODE OF ORDINANCES TO CREATE SECTION 5-38 "RECREATIONAL EXCAVATION OF SAND FROM THE DUNE OR BEACH;" PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

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

Town Manager Connors recalled that at the February 27, 2024 Special Commission Meeting, the Commission discussed how digging on the beach could be regulated. If the Town wishes to prohibit digging on the beach, Chapter 5 of Code discusses beach activities and language has been proposed which would prohibit digging on the beach. The removal, mining, or excavation of sand from any dune or beach would be unlawful within the limits of the Town, and the digging of a hole deeper than 18 in. would be prohibited. It would also be unlawful to depart from the area without filling in any such holes.

Town Manager Connors also noted that this could be explored in a different manner: the Town could instead encourage County or state lawmakers to adopt legislation addressing beach safety. Another alternative would be a combination of both local and more widespread regulation efforts. Staff requests direction on how to proceed.

Commissioner DeNapoli requested clarification of how the term "excavation" is used in the proposed language, pointing out that one reference specifically addresses digging deeper than 18 in. while another states it is unlawful to excavate any sand, earth, or soil. Town Attorney Trevarthen explained that the language in one part of the proposed Ordinance is intended to address the concept of removing natural resources from the beach, while elsewhere it is intended to address digging without removal. She

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confirmed that this language can be reviewed and perhaps modified prior to second reading.

Commissioner Poulopoulos stated that he supported the initiative; however, he cautioned that few people are likely to read the Ordinance, and the most important aspect will be whether or not it is enforced. He was supportive of the Ordinance, but agreed that its language and terms may need further clarification. He also felt the Ordinance can be presented to the state for consideration of wider adoption.

Vice Mayor Strauss questioned whether an Ordinance was necessary, suggesting that beach rules similar to those of Fort Lauderdale may be sufficient. He emphasized that the intent of the proposal is to educate and advise beachgoers about safety. He was not willing to see individuals arrested for digging on the beach.

Town Attorney Trevarthen advised that if an Ordinance and specific penalties do not change the language of Code, the Code defaults to Section 1-12, which states that any activity found to be unlawful or prohibited is punishable by a fine not to exceed $500 or imprisonment for a term not to exceed 60 days, or both. The potential for fines or imprisonment would be part of administrative rule rather than the Ordinance.

Vice Mayor Strauss concluded that he did not see the need for the proposed Ordinance, and would rather see the proposed prohibitions enacted as rules. Commissioner Graziano also cautioned against policing on the beach and spoke in favor of rules similar to those adopted by Fort Lauderdale rather than an Ordinance.

Commissioner Poulopoulos observed that while he was not in favor of creating unnecessary laws, the purpose of an Ordinance is to apply some enforcement to rules. He pointed out that if a beachgoer chooses not to comply with a request to follow beach rules, there would need to be some mode of enforcement to ensure compliance for greater safety. He was in favor of the proposed Ordinance.

Commissioner DeNapoli requested clarification of the enforcement mechanism for a rule rather than an Ordinance. Town Attorney Trevarthen stated once more that Code only creates a fine or imprisonment for activities prohibited within Code; in the case of a rule, a beachgoer would simply be advised to stop their activity. She added that BSO enforces a number of prohibitions on the beach on a daily basis, and only escalates the issue if it is unavoidable.

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Commissioner DeNapoli commented that Fort Lauderdale's rule 7.4.G prohibits the digging of holes or erection of tents, canopies, or fencing on the beach; however, he pointed out that some beachgoers still undertake these prohibited activities. He did not take issue with an Ordinance as long as it is narrowly constructed and there is a sense of what punishment might include.

Mayor Malkoon noted that it is not yet known whether or not there may be habitual offenders who do not follow the proposed Ordinance or rule. He added that a BSO patrol or Code Enforcement presence on the beach would be able to enforce either type of regulation.

Commissioner Poulopoulos made a motion to approve.

Town Manager Connors requested clarification of whether the **motion** to approve includes modifying the proposed Ordinance's language prior to second reading. Commissioner Poulopoulos confirmed this.

Commissioner DeNapoli seconded the motion.

Town Attorney Trevarthen also asked for clarification of whether any aspect of the Ordinance would be removed: for example, the reference to leaving an uncovered hole on the beach could be removed. Commissioner Poulopoulos confirmed that he did not want to remove the references to either digging or abandoning an uncovered hole, and clarified that his concern was with the term "excavation" in the Ordinance's first and second paragraphs.

Commissioner DeNapoli asked if the Town would be able to direct BSO with regard to the enforcement of the Ordinance. Town Attorney Trevarthen stated that the Ordinance can include specifications such as a warning for a first offense; if this is not done, the issue would be left to the discretion of law enforcement. Commissioner Poulopoulos indicated that he trusted the discretion of BSO Officers.

Commissioner DeNapoli also clarified that, as **second**, he accepted the clarification of the **motion** regarding the word "excavation."

Motion carried 5-0.

c. Beach Safety Report

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Deputy Town Manager/Public Works Director Ken Rubach reported that the Beach Safety Report was prepared following the tragedy that occurred in February 2024. The Commission had asked Town Staff to explore ways to mitigate safety issues on the beach. Staff looked at how other local and statewide beach communities gather data on ocean rescue services, the level of beach coverage, and potential alternatives to traditional lifeguards.

Deputy Town Manager/Public Works Director Rubach emphasized that the budget numbers cited in his report are for reference only, as the respective beachfront communities vary widely in the composition of their ocean rescue services.

Lauderdale-By-The-Sea has 2.5 miles or 4400 yards of beachfront, with three access points to public beaches, two on the north and one on the south. The farthest distance between these points is 3344 yards.

The report lists Broward County communities which provide lifeguards located on the beach. These communities have towers which range from distances of 150 yards to 361 yards between them. There is even greater variance in Palm Beach County, where some communities provide their own beach rescue services, some services are provided by the County, and some have hybrid programs.

There is a wide range of costs for lifeguard services, varying between $49,300 per 100 yards of guarded beach to over $228,000 for the same distance. This calculation is based on the number of towers, personnel, and type of personnel and equipment. The median of this price range is $139,100 per 100 yards.

Deputy Town Manager/Public Works Director Rubach strongly emphasized that until the Town issues a request for proposals (RFP) or asks for pricing from Pompano Beach Fire/Rescue, solid costs cannot be confirmed. He added that there would be a very narrow window within which the Town could dictate its requests, as these would most likely be part of a larger RFP discussion. Personnel costs constitute between 69% and 80% of the budget for these services, and there is a wide range of the hourly costs of personnel between communities.

Another cost component associated with lifeguards includes towers. It can be difficult to procure these structures, as they are often made to order. Basic fiberglass towers may cost $80,000, while more complex structures may cost over $130,000 each. The costs of towers do not include first aid kits, oxygen kits, backboards, e-collars, rescue boards, vehicles, or jet skis.

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One alternative to lifeguards may be beach specialists. While the costs for specialists are approximately $6500 per 100 yards, there are additional staff costs which may include benefits. Beach specialists would not provide assistance in the water but would call 911 in the event of emergencies.

Mayor Malkoon noted that the first year of a lifeguard option could cost over $1 million including equipment and personnel, which would be a significant tax increase, as not all of this additional expense could be added to the Fire assessment. He estimated that the Code Enforcement option could cost roughly $300,000 in the first year, not including the costs associated with vehicles.

Deputy Town Manager/Public Works Director Rubach advised that the Town's Finance Department examined the increases that would be necessary in the millage rate for every additional $100,000 budgeted. This came to 0.0313 for every $100,000. To accommodate a $300,000 additional expense, the millage rate would need to increase to 4.0174.

Commissioner Poulopoulos reviewed the report provided in the backup materials, citing several Broward municipalities which have lifeguards. He pointed out that Lauderdale-By-The-Sea has a significant tourist population, and emphasized that the Town should have lifeguards for the safety of both tourists and residents.

Commissioner Poulopoulos continued that protection of citizens is one of the most important investments a government can make. He cited a recent incident in which rescue services crossed jurisdictions to help with emergencies, and added that he did not feel beach specialists were the proper solution for dense beaches. He also recalled that the Town has experienced drownings in the past in addition to the tragedy which occurred earlier in the year.

Commissioner Poulopoulos pointed out that most other Broward beachfront communities do not guard all the lanes of their beaches, but focus on the more populated areas. He asked if there is an agency or association which can study where lifeguard stations should be posted to provide the best safety.

Commissioner Graziano stated that while the full Commission is in favor of public safety, he did not see any information in the Beach Safety Report regarding the number of incidents occurring on beaches, as well as whether they were sand- or water-related. He felt this distinction was important when determining the type of safety the Town

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wished to provide, and that it may be significant that the Town is the only beachfront community which has experienced a tragedy related to sand.

Deputy Town Manager/Public Works Director Rubach advised that the city of Pompano Beach recently contracted with a vendor for an overview of their ocean rescue services. This study cost approximately $50,000. With regard to the number of incidents in other communities, he clarified that Staff was not confident with the historical records available to them, as separate entities may have recorded individual incidents.

Commissioner Poulopoulos observed that the focus is on incidents or accidents which can be prevented, which may not be useful in predicting how past incidents might affect the future. If lifeguards are present, they may be able to act in seconds to save a life, while other types of beach patrols may be a significant distance away. He reiterated that he was in favor of a study before the Town takes action.

Commissioner Graziano pointed out that some beachfront communities have no lifeguards and have never experienced problems. He again emphasized the importance of incident reports in determining if the Town wishes to undertake a significant expense, as well as whether they should consider lifeguards or alternative services.

Vice Mayor Strauss commented that the desire of Town residents should be taken into consideration as part of the discussion. He could not remember a time when the Town had lifeguards on its beaches, and incidents have been addressed by other entities, such as the former Volunteer Fire Department or BSO.

Vice Mayor Strauss continued that most of the residents to whom he has spoken have indicated they are not in favor of employing lifeguards; however, they are in favor of beach patrols, which had a greater presence on the beach in previous years. He suggested consideration of increasing these patrols, which may include the hiring of additional personnel. He also noted that the Town's commercial beaches are concentrated around the Pier, and that many residents are in favor of increasing patrols in those areas.

Vice Mayor Strauss proposed that if the Commission chose to proceed with lifeguards, he would suggest that there be additional contact with other beachfront municipalities and that the effort be made through RFP. He also recommended looking into the prices associated with different types of beach patrols, noting that this may mean hiring more personnel from Pompano Beach Fire/Rescue or designating a Beach Safety Unit which

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will patrol the Town's beaches. There may also be a need for more Town personnel to enforce Ordinances.

Mayor Malkoon concurred that he has also heard from residents that there is not widespread support for posting lifeguards on the beach. He added that lifeguards may not have been able to avert the tragedy that occurred earlier in the year, as they are primarily focused on the water rather than the beach itself. His preference was for a beach patrol or Code Enforcement presence which could monitor digging and/or animals on the beach. It would also be necessary to identify where the funding for additional safety measures would come from, as this could result in a significant tax increase for residents.

Commissioner DeNapoli asked if the Police investigation into Sloan Mattingly's death has concluded and been supplied to the Town. It was confirmed that this investigation has not yet been completed. It was also confirmed that the hiring of lifeguards would lead to a need to raise taxes and would most likely need to be accompanied by cutting services elsewhere as well.

Commissioner DeNapoli also requested clarification that the estimated cost of $6500 per 100 yards of beach patrol, as provided in the city of Naples, was an annual estimate. Deputy Town Manager/Public Works Director Rubach clarified that while this was the case, that figure can be perceived as misleading, as Naples has seven to eight miles of beachfront and costs roughly $101,000 per staff member. The Town would most likely need two to three Staff members, or approximately $300,000.

Commissioner DeNapoli continued that while the Town should have the best possible public safety, he was not in favor of raising the taxes of residents. He concluded that he would like to see the outcome of BSO's investigation, as well as more information on the option of beach patrol increases.

Town Manager Connors noted that increased beach patrols are planned during spring break, with additional funds available for enhanced safety during that season. Commissioner DeNapoli requested clarification of the cost of the enhanced patrols during spring break only, and what these costs would be if spread over the entire season. He also agreed there is not support among residents for full-time lifeguards, although there is support for "stepping up" beach patrols.

Commissioner Poulopoulos observed that he has received emails from residents addressing the lack of lifeguards on the beach. He recalled that when the Town's

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contracts with the VFD and American Medical Rescue (AMR) were replaced by Pompano Beach Fire/Rescue, the Town realized some savings through this consolidation. Town Manager Connors estimated that there had been a savings of roughly $400,000.

Commissioner Poulopoulos continued that when the contract changes had been discussed, he had recommended investing those savings in greater public safety. He requested clarification of what a beach patrol would be expected to do, pointing out that they would not perform the same lifesaving function as a lifeguard, Police Officer, or Firefighter. He concluded that he would like to know how the savings from the new Fire/Rescue contract have been used.

Mayor Malkoon recalled that the Town's most recent budget was calculated with the roughly $400,000 savings in mind, which covered other cost increases. Director of Budget and Finance Lucila Lang confirmed this, adding that the Town's Fire assessment remained the same; the $400,000 savings was in the General Fund, which offset other expenses.

Commissioner Poulopoulos continued that the savings have been used to fund Town expenses for purposes other than public safety, and again emphasized the importance of safety measures. Commissioner Graziano suggested that lifeguards may not be the answer to improved beach safety, and that a compromise may be possible. He felt the discussion should continue moving forward but was not convinced that the Town's number of incidents warranted the addition of lifeguards along its beachfront.

Commissioner Poulopoulos advised that his proposal was not a suggestion of patrolling the entire beach, but that a study be conducted by experts to determine the best place to post lifeguards or concentrate safety measures. Commissioner Graziano stated again that the Town may not have to hire lifeguards in order to provide better beach safety for the community. He reiterated that the Commission should continue the conversation on this topic.

Deputy Town Manager/Public Works Director Ken Rubach concluded that two of the Commissioners have requested more information in the form of a beach study, which would require the engagement of a partner entity by the Town. Mayor Malkoon also noted that the private portions of the Town's beach are also very significant, and the results of a study may recommend easements at some of these locations.

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Town Manager Connors noted that it may be more appropriate to focus on the costs associated with using Code Enforcement on the beach rather than an increased BSO presence. This would be a more appropriate approach for the enforcement of Town Code.

Town Attorney Trevarthen clarified that most BSO enforcement is done in response to complaints, while the debate in this case is whether to station a presence continuously on the beach or to have BSO or another entity “check in” on the beach unless they are called there. Commissioner DeNapoli stated that he would like to see a menu of costs, including the cost of extending enhanced spring break patrols throughout the season.

Commissioner Poulopoulos reiterated that his recommendation was not to add lifeguards over 100% of the Town’s beaches. He added that he did not want to move BSO assets from their primary duties to perform secondary duties, and asked if this had been done during the month of March when BSO had provided enhanced beach patrols. Captain Wesolowski replied that this had been a combination of moving some deputies from other responsibilities during the week, such as traffic, as well as providing dedicated overtime personnel on weekends to strictly patrol the beach.

Commissioner Poulopoulos concluded that he did not feel law enforcement assets should be removed from the Town’s streets to patrol its beaches because no other assets are available for that function.

Captain Wesolowski explained that BSO’s reason for a presence on the beach is to enforce Town Ordinances as well as to keep the peace among a large number of beachgoers by preventing disruptive or illegal activities. These patrols do not typically enter the water, but patrol the beach using all-terrain vehicles (ATVs) to look for violations. If an individual is drowning, BSO would need to involve its Marine Patrol unit. He concluded that water rescues are not the use for which additional beach patrols are intended.

Commissioner DeNapoli asked if Captain Wesolowski had felt the enhanced beach patrols were useful during spring break. Captain Wesolowski confirmed this.

Mayor Malkoon stated again that the Commission’s direction was for more information on the costs of extended enhanced beach patrols, as well as more information on a potential lifeguard study. Commissioner Graziano added that he would like Staff to survey other beach communities for their incident reports.

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Vice Mayor Strauss commented that he was also interested in the costs of extending enhanced beach patrols beyond spring break, either through BSO or through a designated beach patrol program put together by the Town.

Town Attorney Trevarthen noted that this Item had not been advertised for Commission action, but to develop a consensus from the Commission. Deputy Town Manager/Public Works Director Rubach replied that Staff would compile the requested information and update the Commission on when it will be presented. No study involving an outside entity would be retained for this purpose.

Deputy Town Manager/Public Works Director Rubach advised that Pompano Beach is currently conducting an ocean rescue study, and Town Staff has asked what it would cost for this same firm to conduct a similar study for Lauderdale-By-The-Sea. This price was quoted at $50,000. The Pompano Beach study is part of public record.

13. NEW BUSINESS

None.

14. COMMISSIONER COMMENTS

Commissioner DeNapoli advised that he received an email from a constituent regarding speeding on Seagrape Drive. He had reviewed previous meeting minutes from February 2024, which indicated that speed humps could be considered for that location in the upcoming budget process. There is also a study underway on speeding in the Silver Shores neighborhood, both north and south of Commercial Boulevard.

Commissioner Graziano stated that a discussion of vacation rentals is upcoming, and suggested that there may be many unregistered vacation rentals in the Town. He proposed that the Town invest in identifying these properties, possibly through the use of new software.

Vice Mayor Strauss noted that the most recent Friday Night Music event was well-attended and there were no issues.

Mayor Malkoon wished all present a happy Passover. He also recalled that some residents attended the recent United Way gala over the weekend, and encouraged residents to vote for Lauderdale-By-The-Sea in the *USA Today* poll for Best Beach in Florida. A link to this poll is posted on the Town's website.

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Mayor Malkoon continued that Staff is working to prepare an Agenda Item which addresses better enforcement and education regarding vacation rentals. One possibility is working with a company which investigates unregistered vacation rentals. Staff is also working with BSO to develop checklists for vacation rentals.

Commissioner DeNapoli asked if there is Commission interest in scheduling a workshop or workshops on a variety of topics, such as vacation rentals or other outstanding issues raised at today's meeting. There was consensus to schedule a Commission workshop on vacation rentals for May 21, 2024 at 5:30 p.m.

Town Attorney Trevarthen clarified that no Commission action may be taken during a workshop, although the Commissioners may develop consensus to take action at a later regular meeting and may direct Staff to look into additional items.

15. ORDINANCES 1ST READING

a. Ordinance 2024-03: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING THE TOWN'S CODE OF ORDINANCES BY AMENDING CHAPTER 2, ARTICLE V, DIVISION 3, VOLUNTEER FIREFIGHTERS' PENSION PLAN TO TERMINATE THE TOWN OF LAUDERDALE-BY-THE-SEA VOLUNTEER FIREFIGHTERS' PENSION PLAN; AMENDING SECTION 2-136 "PENSION PLAN CONTINUED, DEFINITION," 2-137, "BOARD OF TRUSTEES," 2-149 "DISTRIBUTION OF BENEFITS," AND 2-143.1, "DEFINED CONTRIBUTION COMPONENT" TO ADOPT PROCEDURES AND CRITERIA FOR TERMINATING THE PLAN; PROVIDING FOR SEVERABILITY, PROVIDING FOR CONFLICTS, AND PROVIDING FOR AN EFFECTIVE DATE.

At this time Mayor Malkoon opened public comment.

Ken Brenner, Chair of the Volunteer Firefighters' Pension Board, stated that he would have preferred to be notified by the Commission that this Agenda Item was scheduled for today's meeting. He hoped that all communications and information have been forwarded to the Plan Administrator and Plan Attorney.

Mr. Brenner also thanked Commissioner Poulopoulos for his stance on the issue of lifeguards on the Town's beaches, and hoped to see further Commission discussion of

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this issue. He suggested that a workshop or roundtable meeting be scheduled for further conversation with the public on this topic.

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

Town Manager Connors confirmed that the appropriate Volunteer Firefighters' Pension Plan information was provided to that Plan's independent attorney, who worked with the Town Attorney to draft language for the Ordinance. The Ordinance addresses what is necessary to close the VFD's Pension Plan. The Pension Board has voted to move forward with closing the Pension Plan as well, and its attorney has worked to determine the allocation of funds from this Plan, which is independent of the Town.

Town Staff also recommends moving forward to close the VFD Pension Plan. There is just under $168,000 in tax revenue received from the state of Florida, which will be paid into defined contribution accounts. Staff recommends that this also be included in the payouts, less any necessary actuarial and liability fees.

The proposed Ordinance must be adopted in order to change Code and close the Pension Plan. Its second reading is scheduled for May 14, 2024 in order to begin allocation of distributions on June 1, 2024.

Mayor Malkoon requested additional information on the distribution of funds. Town Manager Connors replied that it is in the Town's best interest to close the Pension Plan account, as the Town is responsible for ensuring the payout is made while the Plan is 100% funded.

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

16. ORDINANCES 2ND READING

a. Ordinance 2024-02: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA AMENDING CHAPTER 17 "STREETS, SIDEWALKS AND OTHER PUBLIC PLACES," ARTICLE VI, "SIDEWALK CAFÉS" TO MODIFY REGULATIONS RELATED TO MAINTENANCE OF RIGHT OF WAY; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR AN EFFECTIVE DATE.

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

Development Services Director Jhanelle Campbell recalled that in September 2021, the Town Commission amended Code to establish a charge for the cleaning of sidewalk café space five days per week; however, the Town did not charge the businesses at that time due to the ongoing impacts of the COVID-19 pandemic as well as the ongoing Downtown Enhancement Project.

After the Downtown Enhancement Project was completed, Staff requested additional direction from the Commission regarding the implementation of the additional charge. In January 2024, the Commission directed Staff to change the sidewalk café cleaning charge from mandatory to optional. The Ordinance was presented for first reading in February 2024, at which time it was approved by the Commission.

The new configuration of the Downtown area will require additional review of the sidewalk café regulations to determine if changes are necessary in the future. If changes are needed, they will be brought back before the Commission under separate Ordinances. Staff recommends approval of the Ordinance on second reading.

Commissioner DeNapoli asked if making a change to an Ordinance prior to second reading means it must be presented for an additional reading. Town Attorney Trevarthen explained that if the Ordinance serves the same general purpose after changes are made, no additional reading is required. There is a specific rule which applies for land use and zoning changes: if greater intensity of development is proposed at second reading than at first reading, the process starts over again with first reading.

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

17. RESOLUTIONS – PUBLIC COMMENTS

None.

18. QUASI JUDICIAL PUBLIC HEARINGS

None.

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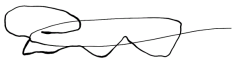
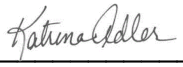
19. ADJOURNMENT

With no other business to come before the Commission at this time, the meeting was adjourned at 9:11 p.m.



Mayor Edmund Malkoon

ATTEST:



Katrina Adler, Town Clerk

5/30/2024 | 8:30 AM PDT

Date