



**TOWN OF LAUDERDALE-BY-THE-SEA
TOWN COMMISSION
WORKSHOP MINUTES
Jarvis Hall
4505 N. Ocean Drive
Wednesday, May 7, 2025
5:00 PM**

1. CALL TO ORDER, MAYOR EDMUND MALKOON

Mayor Edmund Malkoon called the workshop to order at 5:00 p.m. Also present were Vice Mayor Randy Strauss, Commissioner Richard DeNapoli, Commissioner John A. Graziano, Commissioner Theo Pouloupoulos, Town Manager Linda Connors, Deputy Town Manager/Public Works Director Ken Rubach, Town Attorney Susan L. Trevarthen, Director of Budget and Finance Lucila Lang, Development Services Director Jhanelle Campbell, Assistant Director of Development Services Code Compliance Terry-Ann Boyd and Town Clerk Katrina Adler.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. PUBLIC COMMENTS

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

4. DISCUSSION ITEM

a. Exploring P3 Model for Redevelopment of Town Properties

Town Attorney Susan Trevarthen introduced her associates Chad Freeman and Daniela Simo, who were present to share their expertise on public-private partnerships (P3s). Attorney Freeman described the P3 model as a flexible way in which the Town can realize government projects. He reviewed a diagram of the Town's existing conditions and public safety needs, including the Fire Station, public safety offices, and an apartment building acquired by the Town.

Attorney Freeman recalled that a comprehensive audit was performed approximately two years ago for the Town's Fire Department. This audit identified deficiencies and documented key findings that could improve the public safety complex. The required facility size at that time was roughly 24,000 sq. ft. and included additional public safety elements needed by the Town.

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Attorney Freeman explained that a public-private partnership (P3) is an agreement between public and private entities which facilitates increased private sector involvement in the funding and execution of public building and infrastructure projects. These agreements allow governments to leverage assistance from private industry while allowing that industry to assume a larger share of project risks. P3s also allow for an alternative means of project delivery.

P3s may come in the form of a revenue-producing partnership, such as a municipality providing land to a developer for the construction of a hotel that uses a revenue-sharing model. Another option would be a P3 in which a developer builds a facility for a municipality and the municipality provides that developer with additional land for private development. A third model provides for a private entity to fund the design, construction, and financing aspects of a facility in addition to operation and maintenance. Today's presentation focuses primarily on the third delivery model due to current zoning regulations as well as restrictions in the Town's Charter.

Benefits of a P3 include:

- Project delivery
- Cost-effectiveness
- Faster delivery
- Private financing
- Reduction of government risk

These benefits are specific to a design/build model which does not include a revenue-sharing component. If revenue sharing is planned, benefits also include:

- Promotion of economic growth
- Additional tax revenue
- Monetizing underused property

P3s may be procured through a solicited or unsolicited process. This may include adoption through the state's P3 Statute, or the Town may adopt its own procedures. Florida Statutes regarding P3s are supplementary to any procedures which the Town may wish to adopt.

Unsolicited proposals are typically driven by the private market, while solicited proposals are government-driven. If the Town follows Florida's P3 Statute, they would have less discretion than if it adopts its own procedures. In either case, it will be necessary to hire outside professionals; however, costs can be recovered from the

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proposing entity, and a cost recovery deposit would be required in order to ensure a cost-neutral process for the governmental entity.

The P3 Statute is codified in Florida Statutes Section 255.065 and provides flexibility, promotes investment, and encourages innovation in public infrastructure projects. It was enacted approximately 12 years ago and is intended to supplement the existing procurement authority of local governments. At that time, the Statute was meant to encourage governments to use unsolicited proposals.

While very few proposals originally fell under this Statute due to a lack of public records exemptions, the Florida Legislature later addressed this issue to allow an exemption, after which there was a large increase in P3 proposals. The exemption allowed entities' proposals to remain confidential until the process was complete. Many local governments still use the P3 Statute.

The steps for a P3 are as follows:

- Solicited or unsolicited proposal
- Technical evaluation of the proposal(s)
- Determination of whether or not the local government wishes to proceed with an unsolicited proposal; if so, the proposal then goes out to bid so the government can receive other proposals
- Governments may waive the bidding requirement for an unsolicited proposal if a public interest has been determined
- Begin discussions with the bidder
- Potential approval of an interim or comprehensive agreement

A number of factors must be considered when analyzing proposals, including an independent analysis of the proposal, as well as determination of whether or not the financing plan for the project is reasonable. A local government may then either proceed with an interim agreement followed by a comprehensive agreement, or may proceed directly to a comprehensive agreement. An interim agreement provides an opportunity to allow for the government and proposer to provide more detail about the proposal, as well as to better clarify the budget.

Attorney Daniela Simo addressed the Town's procedures, noting that no P3 procedures have been adopted by Lauderdale-By-The-Sea thus far. The Town's Purchasing Manual currently requires a formal competitive bidding process for the cost of a purchase related to development of a public facility, or if the cost of the land exceeds \$25,000. The Town Commission may waive purchasing requirements, however, if they

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identify an alternative purchasing method or leasing of property in the Town's best interests. Should the Town elect not to follow Florida's P3 Statute, it is recommended that it adopt its own procedures for incorporation into purchasing policies.

Attorney Freeman advised that one key benefit of a P3 is the shift of risk. The conventional model typically used by governments is a design/bid/build/maintain model in which a project is financed publicly without private money and is maintained by the local government. This method carries the most risk for the government.

Another delivery model is the design/build/maintain model, which reduces the government's risk. This model provides for the design and construction risk to be shifted to the developer while the government provides public financing and maintenance.

The next model is the design/build/finance/maintain model, in which the project's design, construction, and financing is provided by the developer. Maintenance risks may be shifted to the developer under a separate contract, or may be retained by the government.

The final model, which offers the least risk to the government, is the design/build/finance/operate/maintain model. In this option, all the risk is shifted to the developer. This model works best in the case of concessions that provide revenue sharing.

Key factors to consider include:

- Procurement method: unsolicited or solicited
- Whether to follow state law or adopt procedures
- Identifying key objectives and scope of the public safety building
- Hiring appraisal and/or financial consultants to assist in the evaluation (recommended)
- Determining acceptable ownership and financial arrangements, such as a long-term lease, debt, use of cash reserves, or other options
- Selection of the delivery model

Next steps include:

- Hiring a financial advisor
- Ensuring there are proper architectural engineering firms on staff, as the P3 Statute requires the local government to provide detailed review of the proposal from this perspective

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- Updating the previous assessment to more accurately define the scope and size of the building
- Establish a cost recovery fee for solicited or unsolicited proposals, with a deposit to be submitted to the Town before review of either type of proposal
- Provide direction to Town Staff regarding whether or not to prepare solicitation or wait to see if an unsolicited proposal may be submitted

Commissioner Graziano asked how the best interests of the Town can be determined. Attorney Freeman replied that this decision would be made by the Commission with consideration to both finances and the value of the project to the Town. There are additional specific factors that can be used in making this determination, including:

- Benefits to the public
- Financial structuring and economic efficiencies achieved by the proposals
- Qualifications and experience of the private entity
- Project's compatibility with regional infrastructure plans
- Public comments

Attorney Freeman continued that the Town may make these factors more specific if they wish, pointing out that the P3 Statute was intentionally drafted in a broad manner to give local governments greater flexibility and authority to add more considerations.

Town Attorney Trevarthen added that the P3 Statute is included in the Commissioners' backup materials for their perusal.

Attorney Freeman advised that the marketplace is comfortable with the Statute, and many local governments rely on its requirements, while others choose to supplement the Statute. He estimated that most local governments which adopt P3 procedures do so to supplement rather than replace the State Statute. Supplemental procedures may include:

- Establishing a definitive up-front deposit requirement
- Strengthening financial analysis and review of proposals

Vice Mayor Strauss noted that overseeing consultants would be necessary as well as financial consultants, and requested an estimate of the costs of these services. Attorney Freeman replied that the process should be cost-neutral to the local government. He estimated that the minimum cost would be a \$25,000 deposit for a proposal. The law provides for the replenishment of this amount if it is drawn down to a low level. Private industry understands the necessity of providing a deposit to cover these fees.

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Vice Mayor Strauss asked if the consultants working for the Town would do so in a privileged capacity, or if their assistance would be subject to the Sunshine Law. Town Attorney Trevarthen explained that the consultants would represent the Town's interests, which means there can be direct dialogue with them; if documentation is introduced into a forum such as a Commission meeting, however, that documentation would become public.

Town Attorney Trevarthen continued that while the public records exemption for private documents has expired, there has never been an exemption for public documents outside the restrictions of a cone of silence.

Commissioner Graziano asked if consulting costs can be paid by the private entity. Town Attorney Trevarthen confirmed that this is the purpose of the down payment. She reiterated that if this initial deposit is depleted, the private entity can be required to replenish it in order to fully cover costs.

Commissioner Graziano asked what entity historically negotiates on behalf of a local government. Attorney Freeman replied that this is typically the Town Manager. Town Manager Linda Connors noted that the Commission may also identify a Commissioner to assist with negotiations, which allows the Commission additional input on the process. Commissioner Graziano stated that he would like a Commissioner to be assigned to this type of project in a liaison capacity.

Attorney Freeman advised that another option may be to involve other directors as needed: for a public safety building, for example, a representative of the Fire or Police Department(s) may be included to provide input. This will help ensure a clear understanding of the facility's operational needs.

Mayor Malkoon commented that updating the needs assessment for the public safety building would be an important first step in this process, followed by adopting P3 amendments into the Town's Purchasing Manual.

Town Attorney Trevarthen asked if it is the Commission's desire to wait for an unsolicited proposal or proposals, or to have Staff prepare a request for qualifications or letters of interest. Another consideration is whether or not to adopt supplemental amendments to the Purchasing Manual to address P3 policy.

Vice Mayor Strauss requested greater clarification of the unsolicited and solicited proposal processes. Town Attorney Trevarthen explained that in the past, most of the

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Town's development projects have used the Consultants' Competitive Negotiation Act (CCNA) or State Statutes governing the issuance of requests for qualifications (RFQs). In the P3 model, the Town would specifically solicit a P3 proposal for a public safety building with specific dimensions, features, and location, for which they would like to see a finance component in addition to design/build work.

Town Attorney Trevarthen continued that the level of detail for solicited proposals would be determined by Commission consensus. In the case of an unsolicited proposal, the proposal would be brought forward to the Commission for review, and they would then decide whether or not to engage with the private entity.

Vice Mayor Strauss recalled that previous discussions of the public safety building had indicated there was no clear estimate of the project's costs, nor of the square footage the facility would need. Town Attorney Trevarthen noted that the assessment performed two years ago would need to be updated to reflect changing conditions and facts.

Mayor Malkoon commented that the difference in the assessment may depend upon the provider, pointing out that at the time of the original assessment, the Town had two emergency services providers, while at present there is a single provider. The Town may design for current conditions or for the possibility that those conditions may change in the future.

Commissioner DeNapoli characterized the key differences in a P3 as the Town not having to provide out-of-pocket costs, and that any entity may submit a proposal without adhering to CCNA requirements. Commissioner Pouloupoulos added that one concern may be that analyses are done without knowing which entity will be the provider, or knowing what services may look like in the future.

Deputy Town Manager/Public Works Director Ken Rubach clarified that the previous assessment provides a starting figure. He can also provide information on what is or is not currently used in the existing facility.

Town Manager Connors stated that Town Staff has spoken with representatives of Pompano Beach Fire Rescue (PBFR), which has indicated that requirements for Fire Stations are closely regulated. This means the service requirements would remain similar regardless of whether or not the provider may change.

Commissioner Pouloupoulos asked if other providers of Fire Rescue services would provide the same types of services as PBFR. Town Manager Connors advised that

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these services are standardized; before the Town contracted with PBFR, their existing Volunteer Fire Department had not provided emergency medical services, requiring the use of another entity. Any provider the Town is likely to contract with in the future would provide both of these services.

Commissioner Graziano requested a recommendation on the timing of required processes, including retaining a financial consultant. Commissioner DeNapoli recalled that previous discussions had indicated the Commission would wait until Broward County provides annual property tax information, which arrives in July, before making further decisions on budget considerations. A P3 agreement would provide outside financing for the project to fund its construction by the private partner entity.

Deputy Town Manager/Public Works Director Rubach advised that he saw no harm in developing a list of potential financial advisors to assist with a P3 if needed. It was clarified that the Town Attorney has already provided a list of potential advisors for the Town's consideration if they wish to proceed with a P3.

Town Attorney Trevarthen added that the Town also has architectural and engineering firms on retainer under the CCNA process. She continued that the next step would be to update the previous assessment and determine an estimate. Town Manager Connors pointed out that Matrix, which performed the original assessment, may be able to provide an estimate, although they may not have the expertise necessary to provide more detailed specifications such as square footage.

Attorney Freeman pointed out that it is not necessary to estimate square footage at this stage, as the P3 Statute allows for an interim agreement during which the Town can discuss scope and specifications.

Town Attorney Trevarthen added that Matrix has expertise in public safety that would allow them to develop a more accurate estimate than Town Staff would be able to provide. Deputy Town Manager/Public Works Director Rubach stated that Matrix may be able to lower its estimate for a new building due to the change in staffing levels.

Commissioner DeNapoli observed that any builder will be constrained by the Town's height limitations as well as by staffing and equipment considerations. Town Manager Connors noted that Staff is more concerned with the necessary square footage that can be constructed rather than the maximum possible square footage. She concluded that any estimate prepared by Staff will be a rough estimate.

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Deputy Town Manager/Public Works Director Rubach advised that Staff would work with any firm selected for the design/build process in order to determine space requirements.

Town Attorney Trevarthen pointed out that all considerations thus far have been for the construction of a new public safety building on the current property, which also includes an apartment building. If the Commission wishes to consider another location, this should also be determined in advance.

Commissioner Graziano requested clarification of the possible timeline, recalling that the suggestion to wait until property values are reported in July was based on the Town's budget. He felt entertaining a P3 proposal, or providing the foundation to prepare for a P3, would require a different timeline. Commissioner DeNapoli commented that there is no cost involved in waiting for an unsolicited proposal.

Commissioner Pouloupoulos asked if most prospective Fire Rescue contractors are concerned with the design of the building from which they would be operating. He pointed out that if this is the case, the Town may wish to wait until they enter negotiations with a new provider to determine the specifications of the building. Town Manager Connors reiterated that Fire Station requirements are standardized.

Town Attorney Trevarthen explained that in some P3s, the result is a building that is fully subsidized or free; however, this is not expected in the Town's case. She clarified that the term "cost-neutral" refers to fees by consultants who assist in the deal and not to the actual financing of the building.

Mayor Malkoon asked how it would be possible to generate interest in a P3 if the proposal is unsolicited. It was noted that this would be available through the public record of meetings. No unsolicited bids have been received thus far, although there have been informal discussions.

Commissioner Graziano emphasized the importance of being prepared to consider a P3 when one is proposed. Town Manager Connors confirmed that this preparation is another reason Staff would like to retain a financial advisor.

Mayor Malkoon concluded that there was consensus to use Staff's rough estimate of the space needed for a new public safety building, prepare a list of potential financial advisors, and put forth an announcement. The Commission may also discuss the addition of supplemental regulations addressing P3s.

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Attorney Freeman noted that once an unsolicited proposal is received under the P3 Statute, it is put out on the street so other potential partners may see it as well. He added that there will be several opportunities for the Town to opt out of P3 negotiations if necessary. If they decide to proceed, the Town may enter into an interim agreement for finalization of costs. Once the interim agreement is in place, the Town may then decide whether or not to proceed to the final comprehensive agreement. They may also opt out at the end of the process if they do not wish to enter into the comprehensive agreement. Any of these decisions would be made by the Commission rather than by Staff or by a single Commissioner acting as liaison.

5. ADJOURNMENT

With no other business to come before the Commission at this time, the meeting was adjourned at 6:09 p.m.



Mayor Edmund Malkoon

ATTEST:



Katrina Adler, Town Clerk

5/29/2025 | 3:09 PM EDT

Date