



**TOWN OF LAUDERDALE-BY-THE-SEA
TOWN COMMISSION
MEETING MINUTES
Jarvis Hall
4505 Ocean Drive
Tuesday, October 25, 2022
6:30 PM**

1. CALL TO ORDER, MAYOR CHRIS VINCENT

Mayor Chris Vincent called the meeting to order at 6:35 p.m. Also present were Vice Mayor Edmund Malkoon, Commissioner Alfred "Buz" Oldaker, Commissioner Theo Pouloupoulos, Commissioner Randy Strauss, Town Manager Linda Connors, Acting Town Attorney James White, Deputy Town Manager/Public Works Director Ken Rubach, Assistant to the Town Manager Courtney Easley, Director of Budget and Finance Lucila Lang, Development Services Director Jhanelle Campbell, Special Events and Marketing Manager Debbie Hime, Special Events and Marketing Coordinator Katie Anderson, and Town Clerk Katrina Adler.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION

Pastor Fred Powell III gave the Invocation.

4. ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS

None.

5. PRESENTATIONS

a. Dune Master Plan

Assistant to the Town Manager Courtney Easley introduced Laura Shepard, representing Moffat & Nichol, who gave a presentation on the Town's Dune Master Plan. This Plan was developed after a previous dune program was put on hold due to concerns from Broward County and the Florida Department of Environmental Protection (DEP) regarding dune heights. A dune inventory was conducted, as well as a vegetation assessment, and Moffat & Nichol met with the appropriate agencies before preparing the Dune Master Plan.

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One key factor in dune preservation is the dunes' habitat for nesting turtles. The Town's segment of the beach, which is shared with the city of Pompano Beach, sees approximately 450 turtle nests each year. This beach also supports tourism for the Town, and the dunes provide a level of protection from erosion during storm events.

One concern raised by Broward County with regard to reducing the height of the dunes was that this reduction could impact their health and protective value, making upland properties more vulnerable. A wave height analysis was conducted, which was similar to the analyses conducted by the Federal Emergency Management Administration (FEMA). This showed a dune crest height of +12 ft. North American Vertical Datum (NAVD) would be ideal to maintain. This height was checked against the U.S. Army Corps of Engineers' dune crest template for consistency and was determined to be the target minimum height.

Part of the study included segmenting the Town's beach into three different types of dunes. The first type is new dunes, which would be planned for areas where there are no existing dunes or vegetation on the beach. The Town may work with residents to increase protective value in these areas by encouraging the development of dunes. The Town would plant existing areas with up to five plant species, including grasses and flowering plants. These dunes would ideally be 20 ft. wide or greater. Beach access would be proposed at angles in order to prevent windblown sand or water rushing through to riparian properties.

Another type of dune is public dunes, which are adjacent to publicly owned properties. There are relatively few of these properties in the Town, but they allow for more robust growth. These would be maintained to provide public access and clearances for vehicles. Where native vegetation exists, it would be maintained, and invasive species would be removed. Foot traffic on the dune itself would be discouraged to prevent erosion, and the number of access points would be limited.

The third type consists of existing private dunes, which have robust and diverse ecosystems. Pockets of invasive species would be removed, and these dunes could be roped off to discourage pedestrian erosion or footpaths. Access points would be angled to lessen water intrusion.

Some residents have expressed interest in reducing the height of nearby dunes. DEP has stated that the previous mechanism for this process, which required field permits to be issued on a case-by-case basis, may continue. A DEP representative visits the site and can write a field permit for the work. The only caveats in this case are the 12 ft.

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minimum height for the dune, which must be maintained, and frequency, as dunes may only be reduced once every five years. More frequent reduction would disturb the dunes' vegetation, which helps to stabilize the feature. Some of the vegetation to be encouraged includes flowering species, which can attract butterflies, birds, and other native fauna.

Once species are planted, they will require irrigation until they are established, which typically takes up to six months. While this is commonly done by hand or watering truck, very large areas can also accommodate a temporary irrigation system.

The Town and DEP also discussed potential long-term solutions, such as a beach management agreement. The agreement would list all activities to be undertaken on the beach, including concessions, special events, and dune management. The Town may wish to consider this type of agreement over the long term. Dune management events such as planting would occur outside of turtle nesting season in order to ensure no nests are affected.

Next steps include compiling a list of riparian property owners who may wish to build dunes, reaching out to property owners who already have dunes, and speaking with owners who have expressed interest in reducing the height of their nearby dunes. Dunes would also be inspected on a biannual basis to ensure invasive species are removed and the dunes are being properly maintained.

Commissioner Oldaker requested a comparison of the Town's dunes with the West Coast of Florida, which was recently impacted by Hurricane Ian. Ms. Shepard replied that this varies between areas. Most deep dunes remained intact following the storm, although those communities were affected by flooding due to significant storm surge.

Commissioner Oldaker also asked for information on why some owners do not want dunes in front of their properties. Ms. Shepard replied that dunes can affect owners' views. For this reason, different types of vegetation are used in dunes, ranging from flowering species to flora that can grow to significant height.

Commissioner Oldaker asked for more information on the difference between regulated dunes and private dunes. Ms. Shepard advised that the erosion control line is typically the seaward limit between private and public riparian property lines.

6. PUBLIC COMMENTS

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

7. PUBLIC SAFETY DISCUSSION

None.

8. TOWN MANAGER REPORT

a. Town Manager Report for 10-25-22

Town Manager Linda Connors reported that the Town has purchased automated external defibrillators, which will be available in all buildings in case of emergency. The Chamber of Commerce has partnered with Imperial Point Medical Center to hold a Health Fair on Saturday, February 4, 2023, and is requesting partnership with the Town as well. This will be an Agenda Item in December 2022 for additional discussion. The Town's annual Boo-By-The-Sea event is scheduled for Saturday, October 29, 2022.

Town Manager Connors reminded all present that Tuesday, November 8, 2022 is Election Day. The Commission meeting that week will be held on Wednesday, November 9.

Broward Sheriff's Office (BSO) Captain Tom Palmer has organized a Shred-a-thon to be held on January 14, 2023 at Assumption Catholic Church. Additional information will be available on the Town's website and on social media.

The Town's policy in the past has been to charge for the Staff time involved in fulfilling public records requests; however, this policy has not been followed consistently, as some requests require more time than others. Florida Statutes outline how the Town may charge for this time. Town Manager Connors explained that she wished to clarify to the Commission that this policy exists and is consistent with Florida Statutes. She recommended that the fee be charged for public records requests which take more than 15 minutes of Staff time. Mayor Vincent stated that he was in agreement with this policy.

Town Manager Connors concluded that a Special Magistrate meeting is scheduled for October 27, 2022. The next regular Commission meeting will be November 9, which is the only meeting scheduled for that month. Notice of the change will be on the Town's website, posted at Town Hall, and included in social media and an email blast.

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9. TOWN ATTORNEY REPORT

None.

10. APPROVAL OF MINUTES

None.

11. CONSENT AGENDA

a. Renewal of Town Contracts

Special Events and Marketing Manager Debbie Hime advised that the two contracts presented were entered into in 2021 and are up for renewal. They include a contract for the webmaster and one for drone/video services for Town events.

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

12. OLD BUSINESS

None.

13. NEW BUSINESS

a. Nuisance Code Compliance Properties

At this time Mayor Vincent opened public comment.

Sharon Kaplan, resident, advised that she is a neighbor of a nuisance property at 4326 N. Ocean Drive. She and other neighbors have requested help with a bee problem on the neglected property, which the owner refuses to address. This constitutes a danger to neighboring properties, as bees swarm to their lights. There are also other aesthetic and safety issues on the nuisance property. She asked for assistance in resolving this situation, which has gone on for years.

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

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Development Services Director Jhanelle Campbell stated that Staff proposes to proceed with special Code Compliance measures on three properties within the Town, as they have been unable to secure compliance on several life safety violations through regular Code Compliance measures. The subject properties are located at 4326 N. Ocean Drive, 2036 Coco Palm Place, and 230 Pine Avenue. The actions Staff is requesting will incur costs to the Town.

Development Services Director Campbell continued that 4326 N. Ocean Drive is a four-unit property purchased by the owner in 2003 and is not homesteaded. The property has been vacant since at least 2016, with no active business tax receipt (BTR) since 2004. It has been delinquent in taxes for two years, and two years' worth of tax certificates in the amount of \$26,137.78 have been issued.

Staff considers the property to have been abandoned, as their last communication with the owner occurred in August 2022. An additional warning was issued by Broward County regarding "hatracked" trees on the property; however, no action has been taken to address this violation. Thus far, the property has accrued roughly \$800,000 in fines at a rate of \$700/day. Bees have infested the building, creating a life safety issue for adjacent and nearby properties as well as for pedestrians.

The Town's Fire Marshal and Building Official visited the property to conduct an exterior inspection. Because bees have infiltrated the structure of the property, the Building Official recommends that the case be taken before the Unsafe Structures Board to recommend demolition. This case will go before the Special Magistrate with a request to proceed with foreclosure on the property. An additional option would be to file a complaint in court and have the property declared a public nuisance, which would grant the Town authority to enter the premises and address the existing violations. There would be costs associated with this process, which would be levied against the property as a lien.

Mayor Vincent asked if Staff is aware of any vagrancy on the subject property. Development Services Director Campbell replied that there have been no reports of vagrants on the premises. Staff requests permission to take this case before the Unsafe Structures Board, as well as to ask the Special Magistrate for permission to proceed with foreclosure and file a complaint in circuit court to have the property declared a public nuisance.

Alan Gabriel, representing the Town Attorney's Office of Weiss Serota Helfman Cole & Bierman, explained that he serves as the Town's prosecutor with the Special

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Magistrate's Office. He advised that the subject property's fines continue to accrue at \$700/day. No title search has been conducted thus far for the property. Should the Commission authorize counsel to proceed, a title search would be made to determine the entity with legal rights to the property.

Attorney Gabriel continued that the foreclosure process requires the property to be brought before the Special Magistrate, who determines the following:

- Liens have been filed against the subject property for at least three months
- The property is not homesteaded

All the properties before the Commission tonight meet these two criteria. Attorney Gabriel stated that should the Town authorize counsel to proceed, they will request permission at the Special Magistrate hearing scheduled for October 27, 2022.

Commissioner Strauss emphasized that the issue at stake is one of life safety rather than simple foreclosure with liens. The bee issue has been a problem on the subject property for over a year. Attorney Gabriel further clarified that the property owner has been cooperative in the past, but cannot be found at this time. Any efforts to address the bee problem occurred a significant time ago. The Town has tried to respond to the property's neighbors and address the issue, but the property owner has not acted to remove the bees.

Commissioner Strauss asked if pursuit of foreclosure would mean the Town becomes responsible for the property's tax liens. Attorney Gabriel replied that a title search would identify each party with an interest in the property, including the holders of liens. The Town's Code lien may not have priority, and any other entities with liens would be notified during the foreclosure process.

Development Services Director Campbell added that she has requested that the site be evaluated by an expert to determine the best way forward. She noted that the property owner's efforts to eliminate the bees have been minor.

Acting Town Attorney White advised that the Commission is asked to provide policy direction to Staff and counsel regarding necessary action before the Special Magistrate and the Unsafe Structures Board, or filing a nuisance report. It was determined that the Commission would hear updates on the situation at subsequent meetings.

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Commissioner Oldaker made a motion, seconded by Commissioner Strauss, to proceed with either a nuisance claim, foreclosure, or the Unsafe Structures Board as may be required for 4326 N. Ocean Drive. Motion carried 5-0.

Mayor Vincent strongly emphasized that this issue should be a top priority for Staff due to its importance to public safety.

Development Services Director Campbell continued that the second nuisance property to be addressed is 230 Pine Avenue, which is a single-family home purchased in March 2021 by 827 NW 114 Street, LLC. The property is not homesteaded. Broward County tax records show a tax certificate was issued in 2021, which means the property has been delinquent in taxes for one year. To date, over \$150,000 in fines have accrued on the property and continue to do so at a rate of \$400/day.

The property was previously cited for failure to maintain, and the Town has spent \$200,000 to abate its nuisance violations. These violations have since recurred, along with new violations, such as a strangler fig tree on the property that has a severe bee infestation. There is also an additional violation for trash and litter on the property. These three new violations are scheduled to go before the Special Magistrate on October 27.

The Building Official visited the property on October 14 for an exterior inspection and does not recommend referral of the property to the Unsafe Structures Board. Staff has contacted Broward County's Resilient Environment Department for evaluation of the tree; however, the tree is a native species and must be preserved, which means the recommendation is for mitigation of the bees. Staff has also requested that an expert determine the best way to proceed with bee removal.

If the Commission approves, Staff also requests permission to ask the Special Magistrate to move forward with foreclosure on the subject property at the October 27 meeting, after which time they would proceed to recover the Town's costs and attorneys' fees.

Acting Town Attorney White noted that the previous nuisance abatement action on the 230 Pine Avenue property has already resulted in a lien earlier in the year. Development Services Director Campbell added that a pool is currently under construction on a neighboring property, and the equipment used in construction is agitating the bees and causing them to swarm. Staff has reached out to the property owner via mail and email with no response.

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Commissioner Oldaker asked if the Town may continue to maintain a property once they have taken action to abate a violation. Attorney Gabriel explained that this depends upon the severity of the issue and whether or not it becomes habitual. The Town may ask the Special Magistrate to grant them authority to address a habitual issue, although he cautioned that the Town may not wish to take on this responsibility in all cases. He confirmed that the history of the subject property shows it is not being maintained.

Attorney Gabriel clarified that the Town may not enter the property unless authorized to do so. In some instances, such as where there is no fencing and the property is available, the Special Magistrate may authorize the Town to access the site.

Development Services Director Campbell further clarified that the Town is able to access the tree infested by bees; however, this is a new violation and did not exist when the Town previously abated the property, which means they must seek authorization for access once more.

Commissioner Strauss made a motion, seconded by Commissioner Pouloupoulos, that the Town move forward with authority to foreclose or take whatever action they deem appropriate regarding 230 Pine Avenue. Motion carried 5-0.

Development Services Director Campbell addressed 2036 Coco Palm Place, for which the property owner is deceased. A records search does not show any probate cases open in the state of Florida. An individual who claims ties to the deceased owner is living in the home but is not maintaining the property. Taxes and utilities are paid to date, although Florida Power and Light (FPL) would not release information to Staff.

There are currently severe violations for property maintenance, odor, landscaping, and stagnant pool water on the property. A fence which was in disrepair has fallen, leaving the pool unsecured, which poses a life safety hazard to the public. The pool's stagnant water is a breeding area for mosquitoes.

Staff is bringing a case associated with this property to the Special Magistrate on October 27 to cite the unsecured pool as a new violation. This could allow the Town to obtain authorization to enclose the pool and place a lien on the property if the resident does not make corrections within 48 hours. Staff requests that the Town file a complaint in circuit court to have the property declared a public nuisance and obtain authority to enter the premises, drain and secure the pool, maintain landscaping, and complete any other actions necessary to abate these nuisances.

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Commissioner Strauss noted that the payment of taxes on the subject property serves to complicate the issue, and asked if the Town has exhausted its options before proceeding to have the property declared a nuisance. Attorney Gabriel explained that there is no clarification of the person living on the property; although that individual has indicated a previous relationship with the owner, now deceased, the individual could be a squatter. There have been no responses to any of the Town's Code notices, which led to the issuance of liens. The case has risen to its current status due to the pool, which is unsecured and in violation of Code.

Attorney Gabriel continued that proceeding with foreclosure would allow the Town to conduct a title search and determine whether or not any entities may have an interest in the property. If the owner is in another jurisdiction, the Town could issue notice of the proceedings and have a judge issue an order to take action. He emphasized that the Town is not seeking to rebuild the fence, but to secure the property so it does not constitute a danger.

Mayor Vincent asked if the lack of probate interferes with the process. Attorney Gabriel confirmed that it does not, and noted that the Broward County Property Appraiser's Office has identified the parcel as the estate of the deceased owner; however, there has been no probate activity.

Vice Mayor Malkoon asked if Staff has spoken with the individual occupying the property. Development Services Director Campbell replied that Senior Code Inspector Bethany Banyas has not spoken with the individual in some time; however, the individual has indicated unwillingness to make any effort to mitigate the issues on the property. Bills associated with the property continue to be paid, although there is no clarification of the party that is paying them.

Attorney Gabriel pointed out that it is important for Staff to determine the entity with whom they should be dealing in respect to the subject property. A judge could appoint a receiver to represent the estate if necessary.

Commissioner Pouloupoulos asked if the Town must file foreclosure action in order to perform a title search, or if they may perform this search without taking other legal action. Attorney Gabriel replied that a foreclosure allows the Town to send out letters and notices of their intent to proceed with regard to the site. It is hoped that these notices would cause a party or parties to react and come forward to work with the Town. No paperwork has been identified thus far to suggest that an estate has been created.

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Vice Mayor Malkoon made a motion, seconded by Commissioner Oldaker, to allow Staff to take the necessary means to correct this issue through foreclosure. Motion carried 5-0.

b. Christmas-By-The-Sea Wednesday, December 7, 2022

Special Events and Marketing Manager Hime showed a brief video on Christmas-By-The-Sea, which is scheduled for December 7, 2022. The event begins at 5 p.m. and will include a visit from Santa Claus at 6 p.m., followed by a tree lighting ceremony. Rose Architects will be a title sponsor for the event.

The Commissioners' backup materials include a maintenance of traffic (MOT) plan, and a children's book drive is being sponsored by Action for Literacy.

The Commissioners approved the event by unanimous consensus.

c. Special Event Application for the Publix Fort Lauderdale A1A Marathon on Saturday, February 19, 2023

Special Events and Marketing Coordinator Hime continued that the 18th A1A marathon will be held on February 19, 2023. Site maps are available in the Commissioners' backup materials. Meetings will be scheduled in January 2023 with BSO and the city of Fort Lauderdale to review plans for the event.

The Commission is asked to set applicable road closure fees for the event, as well as parking fees for El Mar Drive's median lane, as the event will host more than 200 people. In the past, the Commission has approved parking fees for spaces in the Anglin Square area but has not charged for road closures.

Commissioner Oldaker made a motion, seconded by Commissioner Strauss, to approve as written, including waiver of road closure and El Mar Drive median lane parking fees. Motion carried 5-0.

d. Wild Berry Salon and Big Cat Bikes Opening Party in Eagle Ray Plaza November 15, 2022

Special Events and Marketing Coordinator Hime explained that these two new businesses will open in Eagle Ray Plaza with a party in 30 days. The Fire Marshal has

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provided positive feedback on the event. While the Applicants requested music in the back near Basin Drive, Staff recommends music be moved to the front breezeway or the other side of the business so it is on the parking lot/Commercial Boulevard side.

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

e. LBTS Community Church Monthly Flea Market beginning Nov. 5, 2022

Special Events and Marketing Coordinator Hime advised that this Item was submitted by the Mayor, as Staff may not submit items to the Commission which are scheduled within 30 days. The flea market event would be held on the first Saturday of each month from 8 a.m. to 1 p.m. Parking will be provided around the Community Church. The Applicant requests a waiver of the \$15 per event day fee, as well as the possibility of a band or other music in a portion of Friedt Family Park.

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

14. COMMISSIONER COMMENTS

Commissioner Oldaker recognized the passing of longtime Hampton Beach Club resident Eugenio Degollada on October 7, 2022.

Commissioner Strauss reminded all present that Veterans' Day will be on November 7, 2022. The Town will hold an event in El Prado Park at 10 a.m.

Mayor Vincent reminded all present of Boo-By-The-Sea on Saturday, October 29, 2022 from 2 p.m. to 4:30 p.m. in the West Business District Plazas. Over 20 Town businesses will participate. The El Mar Boutique Hotel has donated an adults-only weekend stay as a prize for parents. The Mayor recognized the Aruba Beach Café, the Windjammer, and the Village Grille as donors to this event.

Commissioner Pouloupoulos urged all parents to check their children's Halloween candy for safety purposes.

15. ORDINANCES 1ST READING

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None.

16. ORDINANCES 2ND READING

- a. Ordinance 2022-08 – AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA AMENDING CHAPTER 30 “UNIFIED LAND DEVELOPMENT REGULATIONS,” ARTICLE V “ZONING,” SECTION 30-313 “GENERAL PROVISIONS” TO MODIFY REGULATIONS RELATED TO ROOFTOP PLACEMENT OF EQUIPMENT ON ANY PROPERTY; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND FOR AN EFFECTIVE DATE**

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

Development Services Director Campbell recalled that in July 2022, the Commission directed Staff to review potential changes to the Town’s Code of Ordinances regarding the placement of equipment on rooftops. Staff reviewed the Town’s Ordinances as well as those of neighboring municipalities. Ordinance 2022-08 was prepared as a result. It was approved upon first reading at the September 28, 2022 Commission meeting with no recommended changes.

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

17. RESOLUTIONS – PUBLIC COMMENTS

- a. Resolution 2022-48 – A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, APPROVING THE TOWN OF LAUDERDALE-BY-THE-SEA’S COMMUNITY SHUTTLE PROGRAM TITLE VI PLAN FOR SUBMITTAL TO THE FEDERAL TRANSIT ADMINISTRATION**

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

Special Events and Marketing Coordinator Katie Anderson advised that the Title VI Civil Rights Act prohibits discrimination based on race, color, or national origin in any program or activity that receives federal funding. The Town’s community shuttle

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program, administered through Broward County Transit (BCT), receives this funding and is subject to a Title VI Plan. The original Plan was enacted and approved in October 2018 and must be updated every three years using population data.

The proposed amendments to the Title VI Plan have been reviewed and approved by BCT for 2022. The Town recommends approval of Resolution 2022-48.

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

b. Resolution 2022-47 – A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, APPROVING THE FEE SCHEDULE FOR PRE HOSPITAL EMERGENCY MEDICAL SERVICES (“EMS”); PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

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

Assistant to the Town Manager Easley recalled that in June 2015, the Commission approved a five-year agreement with American Medical Response (AMR), which provides emergency medical services (EMS) to the Town. The current agreement is set to expire on September 30, 2025. AMR is requesting a fee increase for the following services:

- Basic advanced life support service Level 1 current fee: \$550; requested fee: \$750
- Basic advanced life support Level 2 current fee: \$675; requested fee: \$875
- Current mileage service fee: \$10; requested fee: \$13
- Current oxygen therapy service fee: \$27; requested fee: \$30

These fees were last increased in 2019. Assistant to the Town Manager Easley noted that even with the requested increases, the amounts are still less than those charged in the municipalities to the north and south of the Town. Staff recommends approval of the increases.

Commissioner Oldaker asked if the four services for which increases are requested base these fees on CBT codes or other standardized coding system. Assistant to the Town Manager Easley replied that she was not familiar with the basis of these fees.

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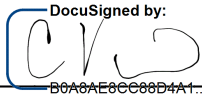
Commissioner Oldaker made a motion, seconded by Commissioner Strauss, to approve. Motion carried 5-0.

18. QUASI JUDICIAL PUBLIC HEARINGS

None.

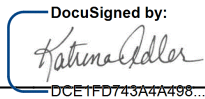
19. ADJOURNMENT

With no other business to come before the Commission at this time, the meeting was adjourned at 8:18 p.m.

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Mayor Chris Vincent

ATTEST:

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Town Clerk

12/29/2022

Date