



**TOWN OF LAUDERDALE-BY-THE-SEA
TOWN COMMISSION
MEETING MINUTES
Jarvis Hall
4505 Ocean Drive
Tuesday, July 12, 2022
6:30 PM**

1. CALL TO ORDER, MAYOR CHRIS VINCENT

Mayor Chris Vincent called the meeting to order at 6:31 p.m. Also present were Vice Mayor Edmund Malkoon, Commissioner Alfred “Buz” Oldaker, Commissioner Theo Pouloupoulos, Commissioner Randy Strauss, Town Manager Linda Connors, Town Attorney Susan Trevarthen, Deputy Town Manager/Public Works Director Ken Rubach, Assistant to the Town Manager Courtney Easley, Director of Budget and Finance Lucila Lang, Development Services Director Jhanelle Campbell, Special Events and Marketing Manager Debbie Hime, Special Events and Community Marketing Coordinator Katie Anderson, and Town Clerk Katrina Adler.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION

All present observed a moment of silence.

4. ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS

None.

5. PRESENTATIONS

a. 4th of July Recap

Special Events and Marketing Manager Debbie Hime provided an overview of the Town’s recent 4th of July celebration. She recognized Grand Marshal Bob Karley, as well as the Broward Sheriff’s Office (BSO), Citizen Observer Patrol (COP) members, the Volunteer Fire Department (VFD), Town Staff, the Town Commission, and sponsors for making the event a success.

b. Fire Services Assessment Fee Analysis Presentation

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Deputy Town Manager/Public Works Director Ken Rubach introduced Khushboo Ingle of Matrix Consulting Group, who provided a presentation on the fire services assessment fee analysis. Ms. Ingle recalled that the City retained Matrix in 2022 to conduct this analysis, which was last done in 2016. There have been no increases or rate changes since 2017.

The Town's fire assessment covers the costs associated with the fire protection services provided by the VFD. No emergency medical services are included in the assessment, which must be in direct correlation to the benefit received by the property.

The analysis considered the VFD and Town fire expenses, including the contract as well as additional expenses incurred by the Town in relation to the VFD. This included land use information from the Broward County Property Appraiser's Office, as well as fire calls for service by both residential and commercial uses over the last three years.

The methodology used began with the Town's fiscal year (FY) 2022 budget as it relates to the VFD. This included capital expenses for vehicles based on their average lifespan, as well as potential options, such as transitioning to a full-time Fire Chief or addressing the public safety building. They also considered a revenue offset for fire prevention inspection fees. The costs were apportioned between residential and commercial properties. Roughly 84% of service calls were for residential properties and 16% for commercial properties.

The analysis divided total costs into 84% residential costs and 16% commercial costs. Residential costs were allocated per dwelling unit, which affects the scale of the assessment: because multi-family properties have multiple dwelling units, the assessment for those properties would be higher. The commercial analysis was based upon square footage, which is standard methodology.

The results suggested two options. One would be a baseline option, which considers the current services and budget. The second option includes the public safety building, as the Town is considering the construction of a new building to house both BSO and the VFD. Matrix estimated that this proposed building would cost approximately \$10 million, which means the VFD portion would be worth roughly \$5 million. Annualized over the standard 50-year life cycle of a building, this would mean \$100,000 should be collected annually toward funding the building.

The baseline option results in an increase in the residential assessment of roughly \$5, or a 4% change. The commercial assessment would decrease from 21 cents to 20 cents

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per square foot, which is a 5% decrease. The Town's residential assessment is currently the lowest assessment in Broward County. The second option, which would include an additional \$100,000 annually to be set aside for the public safety building, would result in a residential increase of nearly \$17.52, or 13%. The commercial rate would increase from 21 cents to 23 cents, or 10%.

Another recommendation is for the Town to adopt a formalized policy to reevaluate these assessments every four years. In between these reviews, they also recommend an annual update to the assessment fees, which would be tied to the VFD's contractual cost increase.

Mayor Vincent asked if Matrix has dealt with other municipalities which have considered changing from a fire assessment to an ad valorem tax. Ms. Ingle replied that assessments are more common because the cost is tied to a specific service, while taxes are related to more generalized benefits for the community. Commissioner Strauss commented that in the future, the Town may consider funding a new public safety building through ad valorem taxes rather than through an assessment.

6. PUBLIC COMMENTS

At this time Mayor Vincent opened public comment.

Barbara Cole, resident, addressed the Commission's consideration of changes to El Mar Drive, stating that the intent should be to refresh this area rather than redevelop it in 2023 rather than making larger changes in the future. She expressed concern with proposed renovations to the Downtown area, stating that plans show unnecessary changes.

Ann Marchetti, resident, stated that she represented a number of Downtown restaurants that wished to urge the Commission to discard some of the specific items proposed in the June 14, 2022 discussion of the Downtown renovation. They wish to replace the current pavers with less pervious materials which extend into the areas currently providing outdoor dining. They are also in favor of eliminating the proposed landscaping wall.

Ken Brenner, resident, requested that the Town "keep it simple" regarding the fire assessment by billing all Town properties for this service using the ad valorem method. This would allow all properties to include the fee as a tax deduction every year.

Mr. Brenner also addressed Item 18a, pointing out that the subject property has residential zoning despite its status as an income-producing property. If it were located in

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a B-1 or B-1-A zoning district, it would be subject to the Payment in Lieu of Parking (PILOP) program. He felt this program should be brought back for future discussion.

Michael Morelli, resident, recalled that House Bill (HB) 105 was recently passed, which enables local governments to regulate cigarette smoking on beaches. He strongly encouraged the Commission to make Lauderdale-By-The-Sea one of the first Florida municipalities to prohibit smoking on the beach.

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

Mayor Vincent advised that the Commission is currently working with Staff to determine whether it is best to address smoking on the beach via Ordinance or Resolution.

7. PUBLIC SAFETY DISCUSSION

None.

8. TOWN MANAGER REPORT

a. Town Manager Report for July 12, 2022

Town Manager Linda Connors reported that the Town has realized significant savings in the salary portion of the budget, and noted that inflation reached 8.6% in May 2022. She proposed making a one-time payment of \$3000 to Town Staff, which would remain within the salary budget while assisting Staff with rising costs. This payment would be within the Town Manager's discretion.

Town Manager Connors continued that the Broward County Property Appraiser's Office has certified the Town's tax rolls, which have increased in value by 9.39% over last year's values. A proposal to set the millage rate will be brought forward at a subsequent meeting. To generate the same amount of value, the 2023 millage rate would need to be reduced to 3.1012; however, she cautioned that the increases brought on by inflation would require some services to be cut if this rate is set. This special meeting is scheduled for July 26, 2022, at 5:30 p.m.

The Fire Marshal and Building Official are working with occupants of 4225 El Mar Drive, the Buena Vista Hotel. The Special Magistrate has ordered a fire watch for the building to ensure residents' safety. Some points of egress are being replaced,. VFD Chief Judson

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Hopping explained that a fire watch means two personnel at a time are on the property, 24 hours per day. This has not resulted in a strain on VFD resources thus far, although he hoped to see the issue resolved soon.

Town Manager Connors continued that at a previous meeting, consultant Hugh Johnson presented a number of proposals for the Downtown area, which were reviewed by residents and the business community. The Commission voted to accept the concepts presented and move forward with construction plans. This approval completed Mr. Johnson's task. The next phase will include hiring a contractor to move forward with construction plans. Procurement Code requires the Town to consider more than one firm. Deputy Town Manager/Public Works Director Rubach has called three firms that have previously worked with the Town, who will submit their proposals on Monday, July 18, 2022. These proposals will be reviewed and brought back before the Commission for consideration.

Town Manager Connors emphasized that the plans approved by the Commission were conceptual in nature: their exact cost will not be known until construction plans have been provided. Once the costs are known and plans are complete, the Town will have a better idea of and any need for modifications.

Commissioner Pouloupoulos observed that once costs and plans have been provided, Staff should ensure that the affected Downtown businesses are aware of the costs that will fall to them regarding these changes. Not all businesses currently offer outdoor dining, and some may find the proposed costs are too burdensome for them. He concluded that it is important to find a solution that benefits residents, visitors, and businesses.

Mayor Vincent further noted that the Commission has approved a footprint for the Downtown changes but has not finalized plans for the entire project at this time. He was also in favor of continued communication between businesses and Staff. Commissioner Strauss recalled that he had requested simpler plans and their costs be considered. More information will result in a more informed decision by the Commission.

Town Manager Connors advised that she, Deputy Town Manager/Public Works Director Rubach, and Assistant to the Town Manager Courtney Easley will reach out to the Downtown businesses regarding the proposed plans and costs associated with them. There has been discussion in the past of passing some of the costs of Downtown maintenance off to these businesses. A meeting will be scheduled later in the summer to discuss these issues further.

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Town Manager Connors recalled that nonprofit donations were reviewed at the June 28 Commission meeting. After that meeting, a representative of the Lauderdale-By-The-Sea Woman's Club reached out to her to request a \$12,000 donation to assist in repairing their building. As the budget has not yet been set, she asked if the Commission wished to consider that request, which can be incorporated into the proposed budget.

Vice Mayor Malkoon requested clarification of the proposed building repairs. Town Manager Connors replied that the repairs were not specified. Vice Mayor Malkoon stated that the building is private property, and asked if designating funds for repairs to private property were appropriate. Town Attorney Susan Trevarthen replied that while this type of donation is unusual, nonprofit organizations are seen to be working in the Town's best interest. She recommended that the Commission consider the type of approach they wish to take.

Vice Mayor Malkoon noted that the Woman's Club has a long history of community activity in Lauderdale-By-The-Sea, and concluded that he did not oppose the donation. Mayor Vincent was also in favor of the donation, although he was not certain if \$12,000 was an appropriate amount for a first request. Commissioner Oldaker also agreed that there did not need to be a specific use cited for the donation.

Linda Collins, president of the Woman's Club, advised that this entity works with the community and with various charitable organizations. Mayor Vincent reiterated that the use of the donation would be left to the Club's discretion.

Commissioner Strauss commented that he was in favor of retaining a deadline by which requests for nonprofit donations must be submitted, and felt this date should be more strictly observed the following year. He was also in favor of some type of donation.

Town Manager Connors noted that the maximum donation amount to a single entity at the June 28 meeting was \$10,000, while the average amount was \$5100.

Commissioner Strauss made a motion, seconded by Commissioner Oldaker, for a donation of \$6000 to the Woman's Club. Motion carried 5-0.

Town Manager Connors reminded all present that the July 26, 2022 meeting will be preceded by a special meeting at 5:30 p.m. The next Commission meeting after that date will be August 23, 2022.

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Mayor Vincent addressed the proposed one-time payment to Staff, requesting an update on which Staff members would be entitled to the payment. Town Manager Connors replied that her suggestion would be to cover all Staff members, including new hires, with the exception of individuals who have tendered their resignations.

Mayor Vincent requested that Staff address the parking issues raised during Public Comment. Town Manager Connors explained that the Commission developed a PILOP program for the B-1 and B-1-A zoning districts, which include commercial properties. This program did not extend into residentially zoned areas, such as the RM-25 zoning district in which the property addressed in Item 18a is located. Residential multi-family properties may reduce their parking requirements through the use of bicycles, as well as through administrative adjustments. Staff may reduce up to three parking spaces in this manner if the property meets certain criteria.

9. TOWN ATTORNEY REPORT

None.

10. APPROVAL OF MINUTES

a. June 14, 2022 Town Commission Meeting Minutes

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

11. CONSENT AGENDA

None.

12. OLD BUSINESS

a. Dee Jay Beach Resort (4617 El Mar Drive) Third Request for Extension to Complete Construction

Development Services Director Jhanelle Campbell recalled that this business suffered a fire in 2020, which caused extensive damage to one of its buildings. Town Code Section 30-137.C.1.d requires that nonconforming structures destroyed by fire may be rebuilt with their original nonconformities if the following criteria are met:

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- The property owner has submitted and received Town approval of a Site Plan depicting the replacement building
- Construction of the replacement building commences within 12 months of the date of destruction, or the Town Commission may grant one or more six-month extension to that time period

The property has come before the Commission twice before to request an extension, as it has been difficult to obtain materials and retain a contractor due to the COVID-19 pandemic. The property has been boarded up and inaccessible during this time. The property owner has secured a contractor and wishes to request another six-month extension.

Staff recommends approval of the extension, although they have concerns regarding the current state of the property and the length of time required for construction. If no progress is made within the next six months, Staff may consider taking the issue before the Unsafe Structures Board.

Nemia Schulte, representing the Applicant, stated that the business' main concern was securing a contractor, which resulted in delays. She advised that permits will be submitted for work within two weeks, and contractors are on standby to begin work once these have been approved.

Commissioner Oldaker asked how long the Applicant would have to begin work once the appropriate permits have been issued. Development Services Director Campbell replied that work must begin within 18 months of the issuance of permits.

Ms. Schulte advised that she understood the Applicant must begin construction within the proposed six-month extension period, although she could not speak to how long construction may take. Mayor Vincent explained that this is governed by State Statute.

Mayor Vincent asked if it is possible for a legal nonconforming use to lose its designation as such. Town Attorney Trevarthen explained that the property must receive approval and commence construction within 12 months of the date of destruction, which is why they are seeking a continued extension. Mayor Vincent confirmed that it would be in no one's interest for the property to lose its legal nonconforming status.

Mayor Vincent asked if there is a limit to the number of extensions that have been granted to a legally nonconforming property. Town Attorney Trevarthen replied that there are no such limits in the Town's Code or Charter.

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

13. NEW BUSINESS

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, APPROVING A PURCHASE AGREEMENT FOR THE REAL PROPERTY LOCATED AT 4312 N. OCEAN DRIVE; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE PURCHASE AGREEMENT; APPROVING AND AUTHORIZING THE TOWN MANAGER TO EXECUTE AN AMENDMENT TO THE LEASE AGREEMENT WITH FLAMINGO EAST, LLC FOR THE PROPERTY

At this time Mayor Vincent opened public comment.

Barbara Cole, resident, noted that no appraisal of the subject property were included in the Commission's backup materials. She also expressed concern with the number of visitors to the Town's beaches, as well as the cost of more parcels used for parking.

Ken Brenner, resident, stated that he was concerned that the subject property had not been appraised. He also expressed concern for the property's potential impact on adjacent parcels, nearby hotels, and beaches, as well as whether or not it would benefit Downtown businesses. He felt the Town's beaches are for residents and tourists.

With no other individuals wishing to speak on this Item, Mayor Vincent closed public comment.

Commissioner Oldaker commented that the subject parcel can serve as a source of revenue within the Town, which would be preferable to raising the millage rate. He was in favor of purchasing the parcel and maintaining its use as a parking lot.

Mayor Vincent pointed out that the purchase of this parcel would keep roughly 50 spaces available. He was in favor of purchasing the lot to retain parking and sustain the Town's businesses.

Town Attorney Trevarthen clarified that there was a last-minute change to the agreement's structure, based upon comments by the seller during negotiations. The title should state "...authorize the Town Manager to execute a memorandum of post-closing

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payments with Flamingo East, LLC" rather than referring to a lease agreement which will be terminated.

Commissioner Poulopoulos observed that the property's lease agreement expires in 2035 and includes two ten-year renewal options. He felt it is preferable to own the property than to continue renting it, particularly as the purchase would be made with zero interest.

Vice Mayor Malkoon requested clarification of the property's appraisal. Town Manager Connors explained that the property owner submitted an appraisal to the Town, and the Town received two additional appraisals as required by the purchasing policy. This information was presented to the Commission when the request to purchase the property was first brought forward at the April 26, 2022 meeting.

Vice Mayor Malkoon concurred with many of the previous comments, adding that he had previously requested the Town update its parking study to include private parking lots and accurately determine how much parking is available. He was also supportive of the proposed purchase.

Commissioner Strauss also agreed with previous comments in favor of the purchase, pointing out that creative financing is available for the parcel and it has been profitable for the last six years. He suggested that the Town consider purchasing other properties if they become available in the future.

Commissioner Strauss made a motion, seconded by Commissioner Oldaker, to move forward with the Resolution. Motion carried 5-0.

a. Volunteer Fire Department (VFD) FY23 Budget Request

Director of Budget and Finance Lucila Lang presented the VFD's proposed operating budget for FY 2023, which represents an increase of roughly \$19,000, or 2.10%, over the FY 2022 budget. Key changes to this budget are listed in the Agenda memo. She recalled that the FY 2022 budget included the purchase of a new truck, which has not yet been delivered. This purchase will be carried forward into FY 2023.

Other capital items include first response vehicles and an ocean patrol all-terrain vehicle (ATV). The budget includes \$300,000 toward a new Fire Station if the Town chooses to move forward with that project.

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

- b. Resolution 2022-27 – A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, APPROVING A PIGGYBACK AGREEMENT WITH BLD SERVICES, LLC, UTILIZING THE MANATEE COUNTY CONTRACT PROCURED PURSUANT TO BID NUMBER 21-R075323JH SANITARY SEWER, STORMWATER, LINE AND MANHOLE REHABILITATION SERVICES, AUTHORIZING THE TOWN MANAGER TO EXECUTE THE AGREEMENT WITH BLD SERVICES, LLC, IN THE AMOUNT NOT TO EXCEED \$875,000; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

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

Deputy Town Manager/Public Works Director Rubach explained that the Town used BLD as a contractor the previous year to line 27 laterals. The request is for a four-year contract. He noted that the previous agreement cannot be honored due to escalating costs.

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

- c. Special Event Application for Broward County's 37th and 38th International Coastal Cleanup Saturday, September 17, 2022 and September 16, 2023**

Special Events and Marketing Manager Hime explained that because this event has been held annually for 37 years, the Applicant suggested submitting an application in advance for the 38th year as well. Staff will remind the Commission of the upcoming event in 2023. The Town assists the County with disposal of garbage recovered during the cleanup. The County is requesting 50 parking permits in El Prado Park to accommodate volunteers.

Vice Mayor Malkoon made a motion, seconded by Commissioner Strauss, to approve, with the 50 parking permits. Motion carried 5-0.

14. COMMISSIONER COMMENTS

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Commissioner Strauss recognized Commissioner Pouloupoulos for his work as Chair of the 4th of July celebration.

Commissioner Oldaker thanked all who participated in the 4th of July event. He also reminded all present that hurricane season is ongoing and recommended emergency preparedness.

15. ORDINANCES 1ST READING

None.

16. ORDINANCES 2ND READING

- a. AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING THE TOWN'S CODE OF ORDINANCES AT CHAPTER 2 "ADMINISTRATION," ARTICLE II "TOWN COMMISSION," SECTION 2-18 "SPECIAL MEETINGS" TO ALLOW FOR INDIVIDUAL NOTICE OF A SPECIAL COMMISSION MEETING TO BE PROVIDED VIA EMAIL.

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

Town Manager Connors recalled that when new policies were approved at the April 24, 2022 Commission meeting, the Commission voted to allow special meeting notice to be provided via email. Code also requires an amendment for consistency with this adopted policy. The Ordinance was approved on first reading at the May 24 meeting.

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

17. RESOLUTIONS – PUBLIC COMMENTS

None.

18. QUASI JUDICIAL PUBLIC HEARINGS

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Town Attorney Susan Trevarthen explained the procedures for the hearing of quasi-judicial items, and the Commissioners disclosed any ex parte communications on the Item.

a. 2022-L2-SPM-02 Site Plan Modification 4324 Seagrape Drive

Development Services Director Campbell explained that this request is for a Site Plan modification. The subject property is zoned RM-25 and consists of approximately 1.7 acre. It began as three units but was increased to four units over time. There has also been significant renovation work without permits throughout the property. This work was done before the current owner acquired the property.

When Town Staff performed a business tax receipt (BTR) inspection on the property, they determined that the fourth unit had not been permitted. The owner submitted a Site Plan modification to legalize that unit. The modification also includes a second means of egress for the second-floor unit. The fourth unit may not be rented during its permitting process and electricity has been disconnected from that unit until it has been determined to be safe. The three lower-level units may be rented once the fourth unit has received its after-the-fact permit.

Development Services Director Campbell advised that the permitted plans include four parking spaces for the originally permitted three units; however, in order to meet the requirement of six spaces for four units, the Applicant has applied for a Level 1 administrative adjustment to waive these two additional spaces.

A citizen participation meeting was held on June 6, 2022, with notice sent to all parties within 300 ft. of the subject property. No correspondence for or against the request has been received by Staff. The Planning and Zoning Board heard this proposal at their July 6, 2022 meeting and recommended it for approval.

Mayor Vincent noted that the Applicant has followed all required procedures regarding the subject property, including requesting a BTR for the properties.

Town Manager Connors advised that because of the egress, the subject property did not pass inspection by the Fire Marshal. The Fire Marshal ultimately worked with Staff and the Building Official to arrive at a solution that would allow the continued use of the three ground floor units. These three units were approved for use by the Fire Marshal.

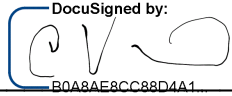
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At this time Mayor Vincent opened public comment, which he closed upon receiving no input.

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

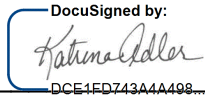
19. ADJOURNMENT

With no other business to come before the Commission at this time, the meeting was adjourned at 8:17 p.m.

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Mayor Chris Vincent

ATTEST:

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Town Clerk

8/30/2022

Date