



**TOWN OF LAUDERDALE-BY-THE-SEA
TOWN COMMISSION
MEETING MINUTES
Jarvis Hall
4505 Ocean Drive
Tuesday, December 13, 2022
6:30 PM**

1. CALL TO ORDER, MAYOR CHRIS VINCENT

Mayor Chris Vincent called the meeting to order at 6:38 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 Coordinator Katie Anderson, and Town Clerk Katrina Adler.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION

Rabbi Bentzion Singer gave the Invocation.

4. ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS

Mayor Vincent requested that Items 13.d, 13.a, 17.a, and 17.b be heard immediately following Public Comment. He also noted that Item 5.b, Christmas-By-The-Sea Recap, will be deferred to a later date.

5. PRESENTATIONS

a. Ericks Consultants Lobbyist Presentation

Lauren Jackson, representing Ericks Consulting, briefly reviewed the timeline for the upcoming Florida Legislature session beginning in March 2023 and lasting until May. Committee Weeks will begin on January 3 and will run until the session begins in March. Representative Chip LaMarca was reelected, and Senator Jason Pizzo is the new Senator representing the area including Lauderdale-By-The-Sea.

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The current Special Session underway in the Florida Legislature is related to property insurance as well as ongoing hurricane recovery efforts in Southwest Florida. Three bills are before the State Legislature:

- A hurricane recovery bill specific to Southwest Florida and including some statewide efforts as well,
- A bill codifying the Governor's toll relief program, which provides a rebate for some SunPass users
- A property insurance reform bill

Ms. Jackson explained that the property insurance bill would create an optional re-insurance program with \$1 billion. Insurance companies may purchase certain tiers of this program in order to see benefits. The bill would also reduce the time frame in which a policy holder may file a claim from two years to one year for a new or reopened claim and from three years to 18 months in the case of a supplemental claim. It reduces the amount of time in which insurance companies may respond by paying, denying, investigating, or acknowledging a claim under prompt payment laws.

One of the more controversial aspects of the property insurance bill is its elimination of one-way attorneys' fees. It eliminates the assignment of benefits for post-loss insurance, and increases the eligibility threshold for policy holders who wish to renew policies with Citizens Insurance. The bill would require the purchase of flood insurance for individuals who wish to be eligible for Citizens and raises the insurance rates on non-primary residences.

Ms. Jackson advised that while supporters and sponsors of the proposed bill acknowledge that it is not perfect, they believe there is no perfect solution to reduce rates. The goal of the bill is to attract more insurance companies into Florida to write more policies and create competition, which could reduce prices.

Major criticisms of the bill include its "one-way" nature, as it primarily benefits insurance companies while not doing enough for the benefit of consumers. The bill's sponsors have indicated that they are open to further discussion of the issue during the legislative session beginning in March 2023. Ms. Jackson noted that the State Senate passed the bill with bipartisan support. It will go before the State House of Representatives on December 14, 2022, where it is expected to pass. While many amendments were offered for this bill, these are not typically accepted during a Special Session.

In the regular legislative session, a number of issues are expected to be addressed, including licensing and local registration of short-term rentals. This is considered to be a

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preemption of home rule, as it would limit what local governments may require of these properties. No language has been filed thus far, although this bill is expected to be similar to one discussed in the previous regular legislative session.

Another major issue is affordable housing. The Senate President is working through a number of ideas for potential inclusion in a draft affordable housing bill. One proposal would consider requiring local governments to adopt a density bonus plan for affordable housing; however, there were concerns that developers who offer a number of affordable units in a commercial mixed-use space could be able to bypass height restrictions, architectural review, and public comment. Ericks Consulting will continue to follow the development of this bill and its language, and the Town's State Legislature delegation is aware of these concerns.

Mayor Vincent requested additional clarification of how far the development of an affordable housing bill has progressed. Ms. Jackson replied that it is still in a conceptual stage, with no initial draft at this time. She noted that a previous legislative session limited the ability of local governments to implement inclusionary zoning, although the State Legislature is interested in finding ways to provide more incentives to developers.

Commissioner Oldaker expressed concern with the proposal to place a 20% cap on Citizens insurance, as property owners are already experiencing difficulties affording insurance. This would affect both homesteaded and non-primary residences.

Commissioner Strauss observed that insurance on commercial space is projected to double, which will require a significant increase in rent to cover this cost. He encouraged all residents to contact their representatives and senators to address their concerns. Commissioner Oldaker also urged the public to contact their elected officials.

Town Manager Linda Connors addressed affordable housing, stating that she had contacted Representative LaMarca to ensure he was aware of the Town's concerns. He has indicated that he will follow this issue closely.

b. Christmas-By-The-Sea Recap

This Item was postponed until the next scheduled meeting.

6. PUBLIC COMMENTS

At this time Mayor Vincent opened public comment.

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Ron Piersante, resident, thanked Deputy Town Manager/Public Works Director Ken Rubach for his work to install a solar Stop sign on Seagrape Drive. He felt that this would help to address safety at that location.

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

The following Items were taken out of order on the Agenda.

13. NEW BUSINESS

d. Resolution 2022-51 – A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, UPDATING AND AUTHORIZING IMPLEMENTATION OF THE TOWN'S COMPREHENSIVE EMERGENCY MANAGEMENT PLAN; PROVIDING FOR CONFLICTS, SEVERABILITY, AND 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 Ken Rubach explained that the Comprehensive Emergency Management Plan was originally adopted in 2017. In 2018, additional changes were suggested, which were not implemented until 2021. Consultant Witt O'Brien assisted in the development of the most recent draft. Broward Sheriff's Office (BSO) Captain Tom Palmer and Volunteer Fire Department (VFD) Chief Judson Hopping also contributed to the document.

Steven Foss, Senior Planner and Training Specialist with Witt O'Brien, stated that the update process for the Comprehensive Emergency Management Plan (CEMP) began in March 2022 with review of the existing document, which used a checklist from the Florida Division of Emergency Management (FDEM) to ensure that their recommendations are included in emergency management plans. A report was provided examining the outline of the Town's existing CEMP, which did not use the format required by FDEM.

Following initial review, Witt O'Brien determined the baseline by which the Town's existing plan was operationally effective. Formatting of the plan was also reviewed to ensure use of the industry standard format. A full update was performed by taking the

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information from the Town's existing CEMP and implementing FDEM guidelines within the document.

The team followed best practices, including guidelines from the Emergency Management Assessment Program the Comprehensive Preparedness Guide, the National Fire Protection Act, and the Federal Emergency Management Agency's (FEMA's) National Response Framework. They also used open-source information, and examined Broward County's 2017 Hazard Mitigation Plan and the 2020 Broward County CEMP. Based on this information, Witt O'Brien formed an idea of what Lauderdale-By-The-Sea may face in the future, and profiled the hazards associated with these anticipated events.

One key item for planning consideration was an overview of the community and its composition. The team examined 2020 U.S. Census data, as well as data from the 2021 American Community Survey (ACS). 41.1% of the Town's population is over the age of 65, while 9% is over the age of 85. Vulnerable populations add more planning considerations, particularly in relation to evacuations and notifications.

The team also examined major disaster declarations for Broward County. From 1965 through 2020, there have been 20 residential disaster declarations, most of which are related to tropical storms or hurricanes. This list also includes the COVID-19 pandemic.

Mr. Foss advised that there is a need to make special planning considerations in light of the Americans with Disabilities Act (ADA) and Access and Functional Needs (AFN) populations. This is particularly true with the Town's older population. He also pointed out that the tourist population is unlikely to opt into emergency alerts or notifications. Additional mapping, including street maps and identification of short-term rentals, was included, along with a Broward County emergency evacuation map and flood maps.

Initial draft review of the CEMP included Town Manager Connors, Deputy Town Manager/Public Works Director Rubach, BSO Captain Thomas Palmer, and VFD Chief Judson Hopping, as well as Mr. Foss and another representative of Witt O'Brien. A workshop was hosted in July to discuss the CEMP and address comments and concerns throughout the draft update. This team has approved a final draft for presentation to the Commission.

Commissioner Strauss asked if evacuation planning and zones were addressed as part of the CEMP. Deputy Town Manager/Public Works Director Rubach replied that he was confident it would be possible for the BSO team to direct evacuations from the Town.

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Commissioner Oldaker asked how the Town's out-of-town operations center at Holy Cross Hospital is coordinated. Deputy Town Manager/Public Works Director Rubach advised that the Town Manager, Public Works, BSO, and VFD meet annually at the beginning of hurricane season to review these plans, and Town Staff reaches out to Holy Cross in advance to ensure access and a plan.

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

- a. Resolution 2022-55 – A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, APPROVING AN AGREEMENT WITH FULL MOON CREATIVE LLC. FOR A/V EQUIPMENT UPGRADES; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE AGREEMENT; 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 stated that the Town has used Full Moon Creative LLC's services for nearly one year, in which time they have dealt with a number of issues related to the Town's audiovisual equipment and system. This Item will address issues with cameras, microphones, and the Commissioners' voting system. The only items not being replaced are the speaker system and the screen.

Commissioner Oldaker asked if Full Moon Creative would be able to present the systems used by other municipalities to determine what would be the best for the Town. Howard Attias, owner of Full Moon Creative, replied that the new voting system would be touch screen-based, with a television screen to display the item being voted upon as well as the Commissioners' votes.

Vice Mayor Malkoon noted that replacement microphones are recommended although the existing microphones have not reached the end of their useful lives. Mr. Attias explained that the new microphones have improved sound quality and are more sensitive. The new televisions will be larger as well.

Vice Mayor Malkoon also requested additional information on the video feed. Mr. Attias stated that Comcast will run fiber to the Town Hall building to upgrade to an HD feed,

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which will provide a clearer standard-definition picture, even though the Town's channel is not in high definition.

Vice Mayor Malkoon asked if there are steps that can be taken to protect the new equipment in the event of another power surge. Mr. Attias advised that the Town's surge protection outlets are rated for commercial equipment; in addition, this system conditions power as it comes through, which lessens the possibility of damage. He noted, however, that the more advanced the equipment, the more sensitive it may be to power spikes.

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

17. RESOLUTIONS – PUBLIC COMMENTS

Acting Town Attorney James White advised that Resolutions 2022-57 and 2022-56 are related, as one adopts the updated fee schedule for permitting and inspections in reference to the C.A.P. Government contract presented for approval in the second Resolution. It was determined that these two Resolutions would be presented and discussed together and then voted upon separately.

At this time Mayor Vincent opened public comment for Resolutions 2022-57 and 2022-56, which he closed upon receiving no input.

a. Resolution 2022-57 -- A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING AND RE-ADOPTING THE BUILDING PERMIT AND INSPECTION FEE SCHEDULE

Development Services Director Jhanelle Campbell advised that the Town's building permit fees are based on a percentage of job costs, which is standard practice throughout Broward County. The current building fee schedule was adopted in 2012 when the Town first entered into agreement with C.A.P. Government, Inc. There are some fees within the building permit fee schedule that are outside typical permit value, such as costs for additional inspections or certificates of occupancy fees.

Staff has reviewed the current fee schedule and recommends the following changes:

- Update surcharge costs required by Broward County
- Reduce pool fees from 2.5% to 1.5% of total job costs

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- Increase charges outside the permit job costs by approximately 10%
- Implement a new service allowing contractors to submit notice of commencement (NOC) to the Town, which Staff will record on their behalf and file for a permit at an additional cost as outlined in the permit fee

Staff recommends approval of Resolution 2022-57.

Mayor Vincent requested additional information on the recording of NOCs, asking if this is an additional service offered by other Broward municipalities and how its implementation would affect Staff. Mark Lefebvre, representing C.A.P. Government, explained that other municipalities provide this important service to contractors.

Mayor Vincent also asked if there is a cutoff point at which the costs of construction of a pool do not have to be incorporated into the value, as some costs may be associated with aesthetics. Mr. Lefebvre replied that the proposed change would simplify the pool fee so it follows only a percentage of revenue. The 1.5% change is consistent with what is required by other municipalities.

Commissioner Oldaker made a motion, seconded by Commissioner Strauss, to approve Resolution 2022-57. Motion carried 5-0.

b. Resolution 2022-56 – A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, APPROVING AN AGREEMENT WITH C.A.P. GOVERNMENT, INC. FOR BUILDING PLANS REVIEW AND INSPECTION SERVICES; PROVIDING FOR WAIVER, AUTHORIZATION TO EXECUTE, IMPLEMENTATION, AND FOR AN EFFECTIVE DATE

Development Services Director Campbell next addressed Resolution 2022-56, recalling that in 2011, the Town issued a request for proposal (RFP) for building services, after which they entered into a three-year agreement and two one-year extensions with C.A.P. Government. This contract was renewed in 2017 with the same terms. Since that renewal, Staff continues to receive positive feedback regarding C.A.P. Government's services. Based on this feedback, Staff recommends a waiver of the purchasing manual's bidding requirements and authorization of the Town Manager to execute the proposed agreement before the Commission.

Some adjustments were made to the contract:

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- C.A.P. Government would now provide a dedicated employee to assist the Town's customers with the electronic permitting system incorporated during the COVID-19 pandemic
- The Town will have the option to renew for two periods of two years each rather than two one-year periods
- In the event that building permit service revenue exceeds \$1.2 million during the fiscal year, the Town shall receive 30% of net revenue from that month forward; this threshold is currently at \$800,000
- Work without permit revenue would be divided 50/50 between C.A.P. Government and the Town. At present, this revenue is divided at a rate of 75/25

Staff recommends approval of Resolution 2022-56 with these changes, as well as with waiver of purchasing manual requirements and authorization for the Town Manager to execute the proposed agreement.

Commissioner Oldaker noted that the dedicated employee would not be on-site, and asked if clients will be able to schedule appointments with this individual. Development Services Director Campbell replied that clients would be able to call this individual and have their questions answered. This employee will also be able to walk clients through the process and evaluate the permit and documentation to ensure completion before it is reviewed.

Commissioner Oldaker asked what might happen if a client is not satisfied following this call. Development Services Director Campbell stated that individuals are welcome to bring any issues to the Department.

Development Services Director Campbell added that Staff is also working on a screen-by-screen manual that can be used for online permitting submittals.

Commissioner Oldaker made a motion, seconded by Commissioner Strauss, to approve 2022-56. Motion carried 5-0.

7. PUBLIC SAFETY DISCUSSION

a. BSO November 2022 Report

BSO Captain Thomas Palmer reported that the employees of the month for November 2022 are the full membership of the Alpha Green squad, which apprehended two separate burglaries in progress.

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Commissioner Oldaker commented that BSO visibility and warnings have been helpful in controlling traffic issues at various locations in the Town. He also requested additional information on catalytic converter theft. Captain Palmer replied that this is a widespread issue, adding that one commonly targeted vehicle is a Mitsubishi sport/utility vehicle (SUV).

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

b. AMR November 2022 Report

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

c. VFD October & November 2022 Report

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

8. TOWN MANAGER REPORT

a. Town Manager Report

Development Services Director Campbell provided an update on the pier, which went before the Special Magistrate the previous week. The owner was ordered to provide a safety report. The area of the pier that remains open has been determined to be safe, although another area has been closed. A professional consultant has been hired to assist with coordination of permit submittals. A two-year wait is anticipated before permits are issued.

Town Staff continues to work with the owner of the Sea Lord Hotel, as well as its newly hired counsel, to address ongoing issues on the property. A stop work order was issued for the property's façade and rooftop. Changes to the property will go before the Planning and Zoning Board and the Town Commission for final approval.

Commissioner Strauss requested a time frame for the Sea Lord Hotel to come before the Commission. Development Services Director Campbell replied that once Staff has reviewed all submittals and prepared reports, a citizen participation meeting will be held,

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after which the property will go before the Planning and Zoning Board and the Commission.

Mayor Vincent asked for additional information regarding this property. Town Manager Connors advised that Code allows for administrative approval of minor changes in plans; however, Staff feels the proposed change in plans for the Sea Lord Hotel are sufficiently significant to go through the full process. The Town has not yet received the final plans for this property and cannot speak to what these might include. She acknowledged residents' concerns regarding the property, noting that fines continue to accrue at \$250/day.

Mayor Vincent recommended that the Commission refrain from commenting on the property until it has gone before the Planning and Zoning Board, where full details are expected to be presented.

Town Manager Connors pointed out that the Town's citizen participation Ordinance was not in place when the plans for the property were originally approved. The updated plans must go through this process. In addition, any items coming before the Commission must meet the Town's Charter requirements in order to be approved. She clarified that some items, such as elevator shafts, solar panels, and mechanical equipment, are permitted to be taller than the Town's height limitation.

Town Manager Connors also addressed the pier, noting that its owner must seek permits from several governmental entities in addition to the Town, which is the reason for the extended time frame for permitting. Town Staff has spoken with State Representative Chip LaMarca as well as the Town's State Senator, both of whom offered assistance immediately following the recent hurricane. Their help may be needed to expedite the permitting process as soon as possible.

Mayor Vincent asked if the level of the pier's deterioration will require additional repairs because of the hurricane. Development Services Director Campbell confirmed that some of the repairs are outside the scope of the original permit.

Town Manager Connors continued that the Town's Downtown Christmas tree has exceeded its useful life and needs to be replaced. She recommended purchasing a new tree on sale after the holiday season, and requested authorization to spend up to \$50,000 on a new tree. The new tree would then be presented to the Commission for approval at a subsequent meeting. There was Commission consensus to authorize the Town Manager to purchase a new tree for up to \$50,000 following the holidays.

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Town Manager Connors concluded that Deputy Town Manager/Public Works Director Rubach is working with the VFD on their new contract. The Town Manager has extended the existing contract for a few months while this work continues.

Work will begin in late January 2023 on lateral lining to continue improvements to the Town's sewer system in order to avoid emergency repairs. This work will start in the Downtown area.

The canal dredging project, which began in 2020 with a benthic survey, will begin soon in Canal B and the Silver Shores Waterway. Notice has been provided to affected communities on Codrington Drive, Seagrape Drive, Basin Drive, South Tradewinds Avenue, and Hibiscus Avenue.

Town Manager Connors recognized Assistant to the Town Manager Courtney Easley, who was recently honored by the Broward County City Managers' Association with a Rising Star Award.

b. September Finance Report

Director of Budget and Finance Lucila Lang noted that the September 2022 Finance Report includes preliminary information and numbers, as some invoices have not yet been received or processed. The Town realized some savings in its group insurance fund, as the increase was less than the 17% for which the Town had budgeted. There are also savings in salaries due to open requisitions.

Building funds were significantly higher than what was budgeted, and Sewer Fund revenues increased and had fewer expenses. The truck budgeted for in the Fire Fund has not yet been received, and this expense has been moved to fiscal year (FY) 2023. All Parking Fund revenues exceeded expectations, with the exception of parking permits. Director of Budget and Finance Lang pointed out that the Town purchased a parking lot and transferred \$1.1 million to the Capital Improvements Program.

The Town's audit is currently underway and is expected to be complete in March 2023.

c. Marketing 4th Quarter

None.

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9. TOWN ATTORNEY REPORT

None.

10. APPROVAL OF MINUTES

a. Minutes:

- 10-6-22 Special Town Commission Meeting Minutes
- 10-25-22 Special Town Commission Meeting Minutes
- 11-15-22 Regular Town Commission Meeting Minutes

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

11. CONSENT AGENDA

- a. Special Event Application for Feast of the Holy Epiphany and Blessing of the Waters, January 6, 2023
- b. Resolution 2022-54 – A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, APPROVING THE FIRST RENEWAL OF THE INTERLOCAL AGREEMENT WITH BROWARD COUNTY FOR THE USE OF AND ACCESS TO TEMPORARY DEBRIS MANAGEMENT SITES AND OTHER RELATED SERVICES; PROVIDING FOR EXECUTION, IMPLEMENTATION, AND FOR AN EFFECTIVE DATE
- c. Special Event Application for Lauderdale-By-The-Sea Health Fair on February 4, 2023 and Co-Sponsorship by the Town

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

12. OLD BUSINESS

- a. Sidewalk Café and Outdoor Dining Fee Waivers related to COVID-19

At this time Mayor Vincent opened public comment.

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Ann Marchetti, resident, spoke on behalf of several of the Town's Downtown restaurants, noting that many of these establishments received invoices from the Town regarding outdoor dining charges. Several of these invoices had different dates and were unclear with respect to the time frame, as well as whether the invoices were for existing or expanded outdoor dining.

Ms. Marchetti continued that these restaurants believe it was the Commission's intent to forgive outdoor dining costs from March 2020 through April 15, 2022. She noted that the backup materials differentiate between outdoor dining and sidewalk cafés. The restaurants have been given a reprieve of 110 days for both types of dining, which they feel is a very short time period. They have asked the Commission to consider waiving the fees and begin billing for them in March 2024, retroactive to April 15, 2022.

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

Assistant to the Town Manager Courtney Easley advised that the Item before the Commission presents information on sidewalk café and right-of-way fees billed during the COVID-19 pandemic. During this time frame, a series of fee waivers were approved by Resolution. Some restaurateurs have requested additional clarification regarding the waived fees, as well as clarification of when the Town began to bill the restaurants.

A sidewalk café is an area located on a public sidewalk or in a portion of a right-of-way associated with a restaurant. It is characterized by the presence of tables and chairs, and is usually shaded by awnings or umbrellas. During the COVID-19 pandemic, the Commission allowed restaurants to expand their sidewalk cafés by using nearby parking spaces. This was done through a series of Resolutions in a time period from September 2020 through November 2022. A timeline of Commission approvals is included in the Agenda packet.

The two issues at tonight's meeting are:

- Reimbursement of fees from FY 2020
- Charges of fees from July 15, 2021 through September 30, 2021

Assistant to the Town Manager Easley recalled that on March 13, 2020, the Town declared a public emergency. Five days later, on March 18, restaurants and beaches were ordered closed for approximately 110 days until July. In July, restaurants were allowed to resume operations in a limited capacity; however, prior to the March closures, most restaurants had already paid their invoices for the full fiscal year.

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The reimbursement of this payment for 110 days from March to July is \$25,000. The second option, which extends from March through September, would be \$47,000. During this period, no Resolution was attached to any waivers.

Regarding the charges of fees from July 15, 2021 through September 30, 2021, this period of time was addressed under Resolution 2021-36, which only waived the fees associated with parking areas and the use of the Plaza. This Resolution did not extend the waiver for sidewalk cafés or right-of-way license fees; therefore, Town Staff invoiced for the fees during this time period.

Some businesses believe it was the Commission's intent to waive these fees for sidewalk cafés and parking areas from July 15 through September 30, 2021. After review, it was found that the Commission's motion on this issue was very specific. Staff is requesting that the Commission provide direction regarding the reimbursement of sidewalk café fees.

Mayor Vincent asked if a member of the Commission who was on the prevailing side of the motion must move to reconsider the item, or if the Commission may override their previous motion without bringing it back for reconsideration. Town Attorney White replied that a motion for reconsideration must typically be made by an individual who was on the prevailing side of that decision at the next Commission meeting.

Town Attorney White continued that if the Commission wishes to reexamine their motion regarding Resolution 2021-36, Staff may bring this item back for discussion. He pointed out that this Resolution arose from a Code provision which provided the ability to grant relief during the COVID-19 pandemic for extraordinary circumstances.

Vice Mayor Malkoon asked if a Resolution was voted upon for the 110 days' reimbursement. Assistant to the Town Manager Easley explained that no action was taken between March and September; the Resolution date is from September 21 onward. Vice Mayor Malkoon commented that the Commission may wish to consider this portion of the Item at today's meeting, with the Resolution to be reconsidered at another time. He noted that while the proposed reimbursement for 110 days seemed fair, the restaurants continued to pay for other services, such as trash pickup, during that time.

Commissioner Oldaker requested additional clarification of the two issues. It was clarified that Staff was referring to actions taken in 2020, while Ms. Marchetti had

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referred to actions from March 2020 through April 2022, which constitutes a full two years.

Commissioner Oldaker continued that the Resolutions were made and voted upon with specific intent. The Commission would also need to know how the votes on Resolutions were broken down among the Commission, and must consider each appropriate Resolution separately. The revenue collected would also need to be calculated, along with the revenue lost through alternative use of the parking spaces. He pointed out that the Commission is charged with acting as stewards of Town property as well as accommodating Town businesses.

Assistant to the Town Manager Easley observed that the votes taken at different meetings did not consistently involve the same Commissioners, which may or may not affect how an Item could be brought back. Town Attorney White advised that the makeup of the Commission does not matter, as the Commission will be reviewing these items as a body.

Commissioner Pouloupoulos noted that while he was not on the Commission until March 2022, he had attended many Commission meetings. He agreed with Vice Mayor Malkoon that the restaurants could not have used their sidewalk cafés during the 110-day span from March to July 2020.

Commissioner Pouloupoulos requested clarification that if the other Resolutions are revisited, he would or would not be able to consider them. Town Attorney White replied that he did not have sufficient information at hand to give a definitive answer at this time, and this issue would need to be examined further. He reiterated, however, that the intent of the Resolution is not invalidated because it is now being seen in a different light, or if a current member of the Commission was not a member at that time. He concluded that he would like to further examine the subject Resolution(s) in the context of the Code provision and backup materials to determine what could be done.

Mayor Vincent commented that the Commission appears to be in agreement regarding the 110 days in 2020. He added that the Commission also attempted to accommodate the restaurants' needs with additional seating outdoors. Once all businesses had reopened, the Commission continued to allow expanded outdoor seating for an extended time, which in some cases added a significant amount of seating for restaurants that also offered traditional indoor seating. The intent of this was to allow those businesses to make up for their losses during prior closings.

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Mayor Vincent continued that if two years' worth of waiver is considered for restaurants, it is possible that other businesses might come forward to point out that they did not receive additional consideration when they were limited during the pandemic. He felt this discussion should continue beyond tonight's meeting if a member of the Commission wished to bring it back, with additional conversation with the Town Attorney and the Town Manager.

Commissioner Pouloupoulos asked what other fees the Town waived during the same time period. Town Manager Connors replied that the Town waived late charges for businesses that did not pay their business tax receipts (BTRs) on time. The Town also allowed a relaxation of Sign Code in general, which permitted the use of sandwich board signs and banners. She added that the removal of parking spaces from the Downtown area helped restaurants in that area, but some retail businesses indicated that they were hurt by the loss of this parking. Commissioner Pouloupoulos commented that it seemed the greatest benefit of these changes went to the Downtown restaurants.

Town Manager Connors advised that upon re-listening to the meeting at which payment for sidewalk cafés was discussed, the Town Attorney had requested clarification from the Commission regarding what they meant to vote upon in Resolution 2021-36, which was summarized as waiving fees for parking spaces but still requiring payment for sidewalk cafés.

Commissioner Pouloupoulos asked if there was a Resolution or any other change between July and September 30, 2020 other than the lifting of Broward County's emergency order. Assistant to the Town Manager Easley clarified that there were no additional changes from the Commission during that time period.

Mayor Vincent concluded that the issue of the additional \$22,000 from July through September would be reviewed further by the Town Attorney, and a decision would be made at a future date.

Commissioner Oldaker made a motion, seconded by Vice Mayor Malkoon, to reimburse restaurants for the 110 days that their sidewalk cafés could not be open due to mandated closure. Motion carried 5-0.

Town Manager Connors suggested that if a restaurant is not current on its sidewalk café payment, a credit could be given against that payment in lieu of reimbursement. The Commission agreed to this by consensus.

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13. NEW BUSINESS

b. Holiday Parking Fees

Commissioner Oldaker suggested that the Town charge parking fees for the use of metered parking spaces during holidays.

Vice Mayor Malkoon commented that there is no parking staff working on holidays to enforce payment. Town Attorney White noted, however, that the schedule of Public Works Staff could be modified to enforce the proposal. Commissioner Oldaker further clarified that his suggestion was that parking meters not be turned off on those days.

Town Manager Connors advised that the current practice is to “bag” parking meters on holidays. She recommended that if the Commission went forward with this proposal, Staff should continue to be given the day off and the meters would be left operable. Commissioner Oldaker explained that his intent was to charge for metered parking on holidays whether or not Staff was present.

Commissioner Oldaker made a motion to eliminate free holiday parking on Thanksgiving, Christmas, and New Year’s Day. (The motion died for lack of second.)

c. Town Manager Performance Evaluation

Mayor Vincent explained that the Town Manager’s contract requires a written performance evaluation to be conducted annually, and that the Commission meet to discuss this evaluation. A written list of the Town Manager’s accomplishments is attached, as is the 2020 Broward County Municipal Managers’ Survey.

Town Manager Connors thanked the Commission for the opportunity to serve first as Interim Town Manager and later as Town Manager. She recalled that the city of Wilton Manors had conducted a survey of municipal managers’ salaries earlier in the year, which showed that the Town Manager’s salary was approximately \$80,000 less than the average in Broward County. She requested that the Commission consider bringing her salary closer to this average as part of their review.

Director of Budget and Finance Lang advised that the Town budgeted \$2.4 million for salaries, while actual salaries currently total \$2.355 million, a savings of roughly \$63,000. This is because when the budget was compiled, a 5% increase was included

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across the board; however, these increases were given out based on individual performance, which resulted in some savings. In addition, the position of Assistant Development Services Director has been open for most of the year, and there are three vacant positions in Public Works.

Commissioner Poulopoulos stated that Town Manager Connors has demonstrated the ability to think creatively when approaching a challenge. He also felt the Town Manager took pride in her work and can continue to improve upon her 2022 performance. He continued that he has reviewed the comparable salaries of other municipal managers in Broward County and believed Lauderdale-By-The-Sea is not up-to-date in its compensation of the Town Manager.

Commissioner Poulopoulos made a motion to raise the Town Manager's salary to \$200,000 for the coming year.

Commissioner Oldaker agreed, recalling that the Town was in a difficult position when the Town Manager assumed her current role. He suggested that the Town establish a base salary for the Town Manager, to which a merit increase could be added to bring the total to a particular amount.

Commissioner Strauss observed that he had negotiated the Town Manager's contract, which included a number of items that called for increases going forward. The Town Manager has met many of these goals, for which he felt she should be compensated. He recommended that the Town Manager's salary be slightly more than what is paid to the City Manager of Wilton Manors, which is \$203,000.

Vice Mayor Malkoon recalled that the Town was not functioning properly when the Town Manager assumed her current role, which required her to take action immediately. He felt she has experienced significant growth in this position, and concluded that he was open to further discussion of compensation.

Mayor Vincent advised that while he had been in favor of going through a more thorough process when seeking a Town Manager, he has been supportive of her work as Town Manager and felt she has achieved a high level of performance and proven herself in this position. This was reflected in the scores of her evaluation. He concluded that he was in favor of a higher base salary in the \$190,000 to \$200,000 range, with the opportunity for an additional merit increase.

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Town Attorney White pointed out that under the terms of the Town Manager's employment agreement, any adjustment to the original base salary would be classified as the adjusted salary for the purposes of her contract. He noted that Section 5.1 of the employment agreement establishes a compensation base, while any adjustment under Section 6.3 would be referred to as the adjusted salary.

Based on the Town Manager's performance review, the Commission may increase the salary, holidays, leave, or benefits granted under the agreement, or they may grant a high-performance award to be paid in a lump sum amount, which would not be added to the salary or wages. Town Attorney White concluded that the amount of the pay for performance would take into account the fiscal condition and ability of the Town to pay at that time.

Vice Mayor Malkoon asked if the Commission should also review employee salaries and pay scales in general. Town Manager Connors confirmed that the Town would need to look into how its salaries compare to those of other Broward municipalities, as there is a danger of losing Staff members to communities with more competitive salaries. She added that if her salary were adjusted to \$193,000, a 5% raise would bring it to the level recommended by Commissioner Strauss at \$202,650.

Town Attorney White advised that Commissioner Pouloupoulos's motion would raise the Town Manager's base salary to \$200,000 per year. He also noted that this motion has not yet been seconded.

Commissioner Pouloupoulos withdrew his motion.

Commissioner Pouloupoulos clarified that he was in favor of the method proposed by the Town Manager, as he felt a merit-based salary increase would be beneficial to both the Town Manager and the Town.

Commissioner Pouloupoulos made a motion, seconded by Vice Mayor Malkoon, to increase the Town Manager's base salary to \$193,000, with a 5% merit increase which would bring her total salary to \$202,650. Motion carried 5-0.

14. COMMISSIONER COMMENTS

The Mayor, Vice Mayor, and Commissioners wished happy holidays to all present.

15. ORDINANCES 1ST READING

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None.

16. ORDINANCES 2ND READING

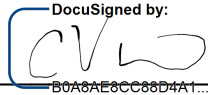
None.

18. QUASI JUDICIAL PUBLIC HEARINGS

None.

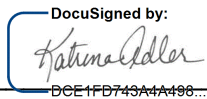
19. ADJOURNMENT

With no other business to come before the Commission at this time, the meeting was adjourned at 9:37 p.m.

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Mayor Chris Vincent

ATTEST:

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Town Clerk

1/20/2023

Date