



**Minutes  
Town of Lake Park, Florida  
Regular Commission Meeting  
October 15, 2008 7:57 p.m.**

**Town Commission Chambers, 535 Park Avenue**

The Town Commission met for the purpose of a Regular Commission Meeting on Wednesday, October 15, 2008 at 7:57 p.m. Present were Mayor DuBois, Vice-Mayor Daly, Commissioners Balius, Carey, and Osterman, Attorney Thomas Baird, Town Manager Maria Davis and Town Clerk Vivian Mendez Lemley.

Mayor DuBois led the Invocation.

Mayor DuBois led the Pledge of Allegiance.

Town Clerk Vivian Mendez Lemley performed the Roll Call.

**ADDITIONS/DELETIONS/APPROVAL OF AGENDA**

Item #4 was pulled from the Agenda and Item # 8 was moved to be discussed after the Consent Agenda.

**Motion: A motion was made by Commissioner Balius to approve the Agenda as modified; Commissioner Osterman made the second.**

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Balius	X		
Commissioner Carey	X		
Commissioner Osterman	X		
Vice-Mayor Daly	X		
Mayor DuBois	X		

Motion passed 5-0.

**PRESENTATION**

**County Charter Amendment Question on the November Ballot Presentation by James Titcomb Executive Director of the Palm Beach County League of Cities**

Mr. Titcomb introduced himself and gave his presentation. He showed the Commission a DVD titled "Let Us Vote" (see Exhibit "A").

**PUBLIC and OTHER COMMENT**

None

**COMMENTS BY COMMISSION, TOWN MANAGER, TOWN ATTORNEY**

**Commissioner Carey**

None

**Vice-Mayor Daly** asked for a status update of the changes made to Town employees' days off.

**Town Manager Maria Davis** stated that staff was currently working with the union and are in the process of finishing the employee handbook. She explained that staff was dovetailing the handbook with union negotiations. Once negotiations are completed, the employees' days off would be retroactive to October 1<sup>st</sup>.

**Commissioner Osterman**

None

**Commissioner Balius** stated that he received complaints regarding the zoning on 10<sup>th</sup> St. He stated that the buildings on 10<sup>th</sup> Street near the railroad tracks have been there since the inception of the Town. He noted that some things in the building code disallow some types of businesses and because of it, some of the business owners are financially and physically unable to come into compliance. He gave examples of some of the businesses and their issues with coming into compliance. He suggested that Community Development Director Patrick Sullivan to implement more appropriate zoning plan in that specific area so that the Commission doesn't have to keep making exceptions.

He commented on what it has been like in the Town over the last 10 years and how things get done much quicker now.

**Mayor DuBois** stated that she attended the League of Cities School for Elected Officials where she learned many good things that she would like to put to use for the Town.

**Town Attorney Thomas Baird** stated that he and Mr. Sullivan attended mediation for the Joseph Sarota case. He stated that the mediation was very productive and successful. He requested another Attorney-Client Session with the Commission to discuss the outcome of that mediation and to also discuss and review the Ocampo case. He recommended November 5<sup>th</sup> for the next Attorney-Client Session.

**The Commission came to consensus to have an Attorney-Client Session on November 5, 2008 at 6:30 p.m.**

**Town Manager Maria Davis** announced that the Town's Marina was awarded the Clean Marina Designation. She congratulated Marina Director Mike Pisano and announced that there would be a ceremony on October 22, 2008 at 11 a.m. at the Marina. She invited the public and stated that she was very excited about this recognition.

She announced that the Marina would be starting its Sunset Parties once again. The next party will be held on October 31, 2008 from 5 pm to 8 pm, and will include a costume party.

She stated that there were renovations done to the 6<sup>th</sup> St. ball field restrooms. The restrooms were cleaned, painted, new fixtures installed and they are now fully operational after 12 years.

She announced that Government Week would be taking place the following week and stated that there would be 7<sup>th</sup> and 8<sup>th</sup> graders stopping by for a tour of Town Hall.

She stated that the Town would need to purchase a new recreation trailer since the current one is leaking and full of mold. She received a \$10,000 estimate to clean up the mold. She recommended the purchase of a new trailer. She stated that the Lake Shore Park north end project came in under budget and that there was \$60,000 remaining out of the project which would more than cover the expense of a new trailer. She stated that she has received one estimate of \$20,000 to \$30,000 for a new trailer. She requested authorization to acquire a new trailer on an emergency basis.

Commissioner Balius asked what would happen to the current trailer.

Town Manager Maria Davis stated that the trailer could possibly be auctioned off.

Vice-Mayor Daly asked if there were any other options such as building a recreational facility.

Town Manager Maria Davis stated that the Town could build a recreational facility but she was trying to go the least expensive route.

Mayor DuBois stated that she would love to see a new building but it would be fiscally challenging at the present time. She stated that the trailer was needed immediately and the purchase of a new trailer would be the most feasible way to solve the current issues.

Discussion ensued among the Commission regarding the purchase of a new recreation trailer.

**The Commission came to consensus to have Town Manager Maria Davis and Recreation Director Greg Dowling bring back options for a new recreational facility at the next Commission Meeting of November 5, 2008.**

**CONSENT AGENDA:**

1. Regular Commission Meeting Minutes of October 1, 2008
2. Purchase a Navistar 10 Cubic Yard Dump Truck Utilizing the Florida Sheriff's Association Bid Award #08-16-0908
3. Purchase One (1) Sanitation Commercial Front Loader Utilizing the Florida Sheriff's Association Bid #08-16-0908

**Public Comment Open.**

*None*

**Public Comment Closed.**

**Motion: A motion was made by Commissioner Carey to approve the Consent Agenda as modified; Commissioner Balius made the second.**

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner			

Balius	X		
Commissioner Carey	X		
Commissioner Osterman	X		
Vice-Mayor Daly	X		
Mayor DuBois	X		

Motion passed 5-0.

**PUBLIC HEARING: ORDINANCE ON 1st READING**

**ORDINANCE NO. 18-2008 – Year Water Supply Work Plan**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, PROVIDING FOR THE ADOPTION OF A 20-YEAR WATER SUPPLY WORK PLAN PURSUANT TO SUB-SECTION 163.3177(6)(c), FLORIDA STATUTES; PROVIDING FOR THE ADOPTION OF AMENDMENTS TO THE TOWN’S COMPREHENSIVE PLAN TO IMPLEMENT THE WATER SUPPLY PLAN; PROVIDING FOR ADOPTION OF POLICIES WITHIN THE COMPREHENSIVE PLAN CONCERNING INTERGOVERNMENTAL COORDINATION OF THE WATER SUPPLY PLAN WITH ADJACENT LOCAL GOVERNMENTS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY; PROVIDING THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.**

Community Development Director Patrick Sullivan explained the reason for Ordinance No. 18-2008 and introduced Mr. Alex Davis.

Mr. Davis explained that the State now required a water supply work plan. He stated that he needed approval from the Commission to transmit the new water supply plan and the associative amendments to the Town’s Comprehensive Plan and Future Land Use Map to the State, DCA, Water Management District and other agencies for their review. He explained that the water supply plan was now a state mandated document even though the Town was not a water supplier. He stated that the plan went before the Planning and Zoning Board on October 6<sup>th</sup>. He reviewed the changes that were made to the plans and the policies which were added to the Town’s Comprehensive Plan.

**Public Comment Open.**

*None*

**Public Comment Closed.**

**Motion: A motion was made by Commissioner Osterman to approve Ordinance No. 18-2008; Commissioner Balius made the second.**

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Balius	X		

Commissioner Carey	X		
Commissioner Osterman	X		
Vice-Mayor Daly	X		
Mayor DuBois	X		

Motion passed 5-0.

**Public Comment Open.**

*None*

**Public Comment Closed.**

Attorney Thomas Baird read Ordinance No. 18-2008 by caption-only.

**QUASI-JUDICIAL HEARING**

**RESOLUTION NO. 59-10-08 – Special Exception for a Machinery Repair Use  
A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE  
PARK, FLORIDA, APPROVING A SPECIAL EXCEPTION FOR A  
MACHINERY REPAIR USE, SUBJECT TO CONDITIONS OF APPROVAL,  
ON A 0.034 ACRE PARCEL OF PROPERTY , OWNED BY ENZO  
GIORDANO ENTERPRISES WHOSE ADDRESS IS 1365 NORTH KILLIAN  
DRIVE, SUITE B; AND PROVIDING FOR AN EFFECTIVE DATE.**

Ex-parte communication was declared as follows:

- Mayor DuBois – none
- Vice-Mayor Daly –none
- Commissioner Balius – none
- Commissioner Osterman – none
- Commissioner Carey – none

Town Clerk Vivian Mendez Lemley swore in all witnesses.

Community Development Director Patrick Sullivan explained that the word “marine” was a typographical error in the Ordinance and needed to be changed to “machinery”. He explained that the Resolution would allow for special exception uses in the C-4 District.

**Public Comment Open.**

*None*

**Public Comment Closed.**

**Motion: A motion was made by Commissioner Osterman to approve Resolution No. 59-10-08; Commissioner Balius made the second.**

Vote on Motion:

Commission Member	Aye	Nay	Other
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Commissioner Balius	X		
Commissioner Carey	X		
Commissioner Osterman	X		
Vice-Mayor Daly	X		
Mayor DuBois	X		

Motion passed 5-0.

**PUBLIC HEARING: ORDINANCES ON 2<sup>ND</sup> READING**

**ORDINANCE NO. 04-2008 – EAR**

**AN ORDINANCE OF THE TOWN OF LAKE PARK, FLORIDA, ADOPTING THE EVALUATION AND APPRAISAL REPORT-BASED AMENDMENTS TO THE COMPREHENSIVE PLAN; AUTHORIZING TRANSMITTAL TO REVIEW AGENCIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.**

Community Development Director Patrick Sullivan introduced Mr. Jerry Bell.

Mr. Bell explained and reviewed the amendments and changes that were made to the Town’s Evaluation and Appraisal Report. He stated that he received input from the agencies that the report was submitted to upon 1<sup>st</sup> reading. He reviewed and explained the changes that were requested by state agencies. He said that the changes were made and he requested authorization from the Commission to accept the changes and re-submit the document to the Department of Community Affairs.

Mayor DuBois asked if the EAR would affect the Town’s ability to object to any roadway changes that the County may want to make.

Attorney Thomas Baird explained that the EAR would not affect the Town’s ability to object to changes that the County may make to roads or roadways.

**Public Comment Open.**

*None*

**Public Comment Closed.**

**Motion: A motion was made by Commissioner Osterman to approve Ordinance No. 04-2008 upon 2<sup>nd</sup> reading; Commissioner Balius made the second.**

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Balius	X		
Commissioner			

Carey	X		
Commissioner Osterman	X		
Vice-Mayor Daly	X		
Mayor DuBois	X		

Motion passed 5-0.

Attorney Thomas Baird read Ordinance No. 04-2008 by caption-only.

**ORDINANCE NO. 10-2008 – Business Tax**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, REPEALING ORDINANCE 22-2007 AS RECENTLY CODIFIED IN CHAPTER 28 AT SECTION 28-51 OF THE TOWN CODE WHICH INCREASED THE ANNUAL BUSINESS TAX BY 25% FOR THE BUSINESSES LISTED IN ORDINANCE 22-2007; PROVIDING FOR THE REPEAL OF SECTION 28-43 ENTITLED “SELF-CLASSIFICATION OF BUSINESS MERCHANT”; PROVIDING FOR THE AMENDMENT OF SECTION 28-45, ENTITLED “ADDITIONAL TAX BASED ON MERCHANDISE STOCK;” PROVIDING FOR THE AMENDMENT OF SECTION 28-51 ENTITLED “SCHEDULE OF TAXES AND REGULATIONS” TO INCREASE THE ANNUAL BUSINESS TAX CHARGED BY THE TOWN FOR THOSE CLASSIFICATIONS OF BUSINESSES, OCCUPATIONS, AND PROFESSIONS AS THEY EXISTED PRIOR TO THE ADOPTION OF ORDINANCE 22-2007 BY 5% PURSUANT TO SECTION 205.0535, FLA. STAT. (2007); PROVIDING FOR THE AMENDMENT OF THAT PORTION OF SECTION 28-51 REQUIRING CERTAIN BUSINESSES SELLING MERCHANDISE TO PAY AN INVENTORY TAX ON ALL STOCK OF MERCHANDISE; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**Public Comment Open.**

*None*

**Public Comment Closed.**

**Vice-Mayor Daly made a motion to approve Ordinance No. 10-2008 with the deletion of the 5% business tax increase and the inventory taxes.**

Attorney Thomas Baird explained that the 5% business tax increase requires a 4-1 vote by the Commission in order to be passed.

**Mayor DuBois stated that Vice-Mayor Daly’s motion failed from lack of a second.**

**Motion: A motion was made by Commissioner Osterman to approve Ordinance No. 10-2008 upon 2<sup>nd</sup> reading; Commissioner Balius made the second.**



Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Balius	X		
Commissioner Carey	X		
Commissioner Osterman	X		
Vice-Mayor Daly		X	
Mayor DuBois		X	

Motion failed 3-2.

Attorney Thomas Baird explained that the 5% increase portion of the Ordinance would need to be passed by a 4-1 vote.

**A motion was made by Commissioner Carey to approve Ordinance No. 10-2008 with the deletion of the inventory tax to auto dealerships only; Commissioner Osterman made the second.**

Town Manager Maria Davis asked Attorney Baird if the Town would be liable for excluding businesses other than auto dealerships from no inventory tax. She requested that he state his opinion on the record regarding the matter.

Attorney Baird explained that he could not guarantee that the Town would not be liable on any decision that it makes. He stated that he had explained previously that all businesses within a single classification would have to be treated equally, not treated equally across classifications.

Town Manager Maria Davis stated that the classification argument was the position of opposing counsel. She stated that she was concerned that Mr. Baird went on the record in writing to her that there was an equal protection issue. She stated that as long as Mr. Baird does not believe it is an equal protection issue, she was uncomfortable listening to opposing counsel's opinions and rendering regulations or procedures about how the Town handles business tax based on opposing counsel's recommendations.

**Commissioner Osterman retracted her 2<sup>nd</sup> on the previous motion made by Commissioner Carey.**

**Mayor DuBois stated that the previous motion failed for lack of a second.**

**Motion: A motion was made by Commissioner Carey to approve Ordinance No. 10-2008 as written upon 2<sup>nd</sup> reading; Commissioner Osterman made the second.**

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner			



Balius	X		
Commissioner Carey	X		
Commissioner Osterman	X		
Vice-Mayor Daly		X	
Mayor DuBois		X	

Motion failed 3-2.

Discussion ensued between the Commissioners and Attorney Baird regarding liability issues with Ordinance No. 10-2008.

Discussion ensued among the Commissioners regarding taxation and issues with the economy.

**Motion: A motion was made by Commissioner Carey to approve Ordinance No. 10-2008 deleting the auto dealership inventory tax and keeping the 5% business tax increase; Commissioner Balius made the second.**

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Balius	X		
Commissioner Carey	X		
Commissioner Osterman	X		
Vice-Mayor Daly		X	
Mayor DuBois	X		

Motion passed 4-1.

Town Manager Maria Davis stated that the deletion of the auto dealership inventory tax would be a fiscal impact of \$65,000 to the Town.

Attorney Thomas Baird read Ordinance No. 10-2008 by caption-only.

**DISCUSSION AND POSSIBLE ACTION**

**Presentation by Mr. Wayne Creber Regarding the Potential Development of Land Owned by Mr. Creber and South Florida Yachts that Abut the Marina**

Mr. Creber introduced himself and explained the purpose of his presentation. He explained that potential land development would give more public access and visibility to the Town's Marina.

Town Manager Maria Davis explained the purpose of Mr. Creber's presentation and stated that she was advised by Palm Beach County Commissioner Karen Marcus to bring the recommendation to the Commission.

**Motion: A motion was made by Commissioner Balius to approve the land development of the Marina which would include restaurants and public access from the water and additional parking; Commissioner Carey made the second.**

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Balius	X		
Commissioner Carey	X		
Commissioner Osterman	X		
Vice-Mayor Daly	X		
Mayor DuBois	X		

Motion passed 5-0.

**Bert Bostrum Park Ball Field Fence**

Town Manager Maria Davis explained that in a past Commission meeting the Commission discussed and requested a proposal on a fence for the Bert Bostrum Park. She stated that she provided an estimate and design for the fence. The design would close up all of the openings at the park and would protect the ball field portion of the park. The General Fund Contingency or Reserves would not be used to fund the fencing. She stated that the funding would be used from another Town fund.

Mayor DuBois stated that she liked the idea of the fencing protecting the ball field and allowing access to the basketball court and tot playground.

Commissioner Osterman recommended leaving the existing fence around the basketball courts and tot lots for safety reasons but leave it unlocked for public access.

Town Manager Maria Davis recommended keeping the proposed fencing configuration and placing an extra piece to enclose the basketball court and tot lot and to install a baffle gate that would allow access but close off the ball fields.

**Motion: A motion was made by Commissioner Balius to authorize Town Manager Maria Davis to move forward with the proposed fencing project; Commissioner Carey made the second.**

Vote on Motion:

Commission Member	Aye	Nay	Other

Commissioner Balus	X		
Commissioner Carey	X		
Commissioner Osterman	X		
Vice-Mayor Daly	X		
Mayor DuBois	X		

Motion passed 5-0.

Commissioner Carey asked if the funding for the fence would come from the Community Beautification Fund.

Town Manager Maria Davis confirmed that the funding would come from the Community Beautification Fund.

Commissioner Carey asked if grants were available from the Beautification Fund.

Town Manager Maria Davis stated that residents with code compliance fines have been informed of the availability of the grant money but very few have taken advantage of the opportunity.

Commissioner Carey asked Town Manager Davis if she would be presenting a Resolution to change the designation of code compliance fine money from the Beautification Fund to the General Fund.

Town Manager Maria Davis stated that she would generate such a Resolution and bring it back to the Commission for approval.

**ADJOURNMENT**

There being no further business to come before the Commission and after a motion to adjourn by Commissioner Osterman and seconded by Commissioner Balius, and by unanimous vote, the meeting adjourned at 9:45 p.m.



Mayor DuBois



Deputy Clerk Jessica Shepherd



Town Clerk Vivian Mendez Lemley



FLORIDA

Approved on this 5 of Nov., 2008.