



Minutes
Town of Lake Park, Florida
Regular Commission Meeting
November 5, 2008 8:15 p.m.
Town Commission Chambers, 535 Park Avenue

The Town Commission met for the purpose of a Regular Commission Meeting on Wednesday, November 5, 2008 at 8:15 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

None

Motion: A motion was made by Commissioner Balius to approve the Agenda; 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.

PROCLAMATIONS:

Deputy William Badala

Mayor DuBois read the proclamation to Deputy William Badala.

Deputy Badala accepted his proclamation and thanked the Commission.

Historical Society celebrating their 10th anniversary

Mayor DuBois read the proclamation to Dorothy Gooding of the Historical Society.

Ms. Gooding thanked the Commission and gave a brief history of her tenure with the Historical Society.

PUBLIC and OTHER COMMENT

None

COMMENTS BY COMMISSION, TOWN MANAGER, TOWN ATTORNEY

Commissioner Carey

None

Vice-Mayor Daly stated: "I just wanted to bring up what we were doing in the Marina some time ago, about three months ago, I guess. We approved, or the rest of the Commission approved, adding some slips in the Marina. I knew at that time that there was going to be a problem with that other than beyond spending money at this time. I wrote back to Tallahassee again for clarification and received a letter back from them this week stating that we can't put more slips there. I'll supply you with the letter because that's not our property once again and we have to be very, very careful with what we're doing at the Marina. I tried to make everybody aware up here that that Marina has restrictions on it which a good portion of the Marina we do not own and therefore for us to do any kind of commercial, retail and so on, that's why we couldn't put the restaurant there and now that this is come about, we can't do this project. The last time it was the restaurant and they said "Well, we would let you put the restaurant there at a cost of \$80,000 a year". I didn't get any figure as to what it would cost to do that project but at this time they're just stating "No, you can't do that", and we also have an additional problem there and we don't want to go too far out and the only reason why I'm bringing it up here is because I haven't been able to make too much progress as to the restrictions in the Marina, but we also have some other things sitting in the ground out there that are totally, could be bringing us a problem. Before we make any further efforts to do anything in that Marina, I had given you sometime back when you first became part of the Town of Lake Park, the copies of the restrictions and so on and I think that area not only has the restrictions but reverted clauses which of course means that we could lose that property if we don't comply with what the directors gave to us and we use that property, but we do not own the Marina. The Marina is almost split in half and half is restrictions; half of it is not restrictions. I'm going to give you a copy of the letter. I think we all should have a copy of it. I give everybody the opportunity to know what we are voting on when it comes to the Marina. We could get into some very financial bad situations there so we need to all be a little bit more advised of what we can and can't do because if we don't, we are not only subject to losing it, we could be paying a lot of money out. So, I'm going to give you all a copy of that letter so that we all understand and I got some maps and so on so that everybody can be on the same page."

Commissioner Balius stated: "I appreciate you trying to keep the Town from being sued or losing the Marina and all, but this team that sits right here, there's five of us. We approve letters that go to Tallahassee that's written by the Town. Each and every one of us can't just sit down and write a letter."

Vice-Mayor Daly stated: "Sure, you can."

Commissioner Balius stated: "We authorize the Mayor to write letters on our behalf".

Vice-Mayor Daly stated: "I do this because I know it's a problem. I brought this up before, in fact you're the guy, you're the Commissioner who started with the restaurant, and you approved that at a workshop which you shouldn't have done, and a lot of negative things with that situation. Obviously you haven't learned your lesson."

Commissioner Balius stated: "Well, I've learned one thing, Ed; that I can't write a letter to Tallahassee."

Vice-Mayor Daly stated: "Anybody can write a letter."

Commissioner Balius stated: "Not if you sit on this Commission and use your name as a Commissioner."

Vice-Mayor Daly stated: "My name is on the letter identifying who I am. That's public record. I can get that information, you can get that information. I suggest that you try getting some of that so that you have a better understanding of what's going on and don't jeopardize this Town financially."

Mayor DuBois requested that the Commission be copied on the letter and she asked Attorney Thomas Baird to go over the answer to the letter so that the Commission could be properly and legally advised.

Commissioner Balius stated that the Commission has gone over the deed restrictions hundreds of times and many attorneys have reviewed them since 1991.

Mayor DuBois stated that once a copy of the letter is received the Commission would take everything mentioned about the Marina into consideration.

Commissioner Osterman stated that she and the Mayor had attended the advanced training of the Institute of Elected Municipal Officers which is put on by the Florida League of Cities. She thanked the Town for the opportunity to attend and recommended that the entire Commission attend.

Mayor DuBois stated that she learned a tremendous amount of information at the training and agreed that it was beneficial for all elected officials to attend.

Commissioner Osterman stated that there was discussion regarding foreclosures at the training and recommended modeling an ordinance that was created by another municipality and used as an example at the training.

She stated that she was happy to see the turnout at the elections and was pleased with both presidential candidates' speeches the night before. She stated that she was thankful and felt privileged to be in public office and sit with the Commission.

Mayor DuBois made comments regarding the training for elected officials and stated that it was very helpful.

She stated that if anyone was missing a Chihuahua to contact her because she knew who was in possession of the dog.

Commissioner Carey congratulated Recreation Director Greg Dowling on a successful car show event.

Town Manager Maria Davis announced that the Town's Parks and Recreation Department was now offering Tai Chi and Karate classes on Tuesday and Thursday nights at the Lake Shore Park Pavilion. Tai Chi is \$5 per class and Karate is \$10 per class. She announced that on December 13, 2008, Ms. Joan Miller of the Palm Beach Ballet Center is offering a free Christmas Concert in the Town's Mirror Ballroom.

She stated that anyone who wishes to receive news about the Town via the Town's e-newsletter she encouraged them to sign on the Town's homepage under the e-newsletter icon.

Town Attorney Thomas Baird

None

CONSENT AGENDA:

1. Regular Commission Meeting Minutes of October 15, 2008
2. Resolution No. 61-11-08 Breakwater Project at the Marina – Execute a Grant Agreement with FIND for Phase 1 – Engineering, Surveying & Permitting
3. Notice of Beautification Grant Award in the Amount of \$6,000 for a Roof Replacement

Items 1 and 2 were pulled from the Consent Agenda.

Public Comment Open.

None

Public Comment Closed.

Motion: A motion was made by Commissioner Carey to approve item number 2 of the Consent Agenda; 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.

Commissioner Osterman stated that on page 9 of the October 15, 2008 minutes it reflected that

she had made a 2nd on a motion in which she had retracted. She stated that she also did not make a 2nd on the final motion for the Business Tax Ordinance and that it was in fact Commissioner Balius who had made the 2nd.

Motion: A motion was made by Commissioner Carey to approve item number 1 of the Consent Agenda with modifications; 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.

Commissioner Balius asked if the property requesting a beautification grant was a rental property.

Town Manager Maria Davis stated that the property was not a rental but a Homesteaded property.

Commissioner Balius stated that the Town had given substantial beautification grants in the past and verbiage was included in the grant which requested that the grant be paid back to the Town in full should the property be sold within a certain time frame.

Discussion ensued among the Commissioners regarding the verbiage in the Beautification Grant documents.

Community Development Director Patrick Sullivan explained how the grant would be paid back on a graduated scale.

Mayor DuBois directed Attorney Thomas Baird to come back with his recommendations for the verbiage in Beautification Grant documents.

Commissioner Osterman asked if there were any guidelines that Beautification Grant applicants must meet in order to be approved.

Community Development Director Patrick Sullivan explained that the applicant must prove that they are in need and that they own the property.

Mayor DuBois explained her recollection of the origination of the Beautification Grant.

Commissioner Carey stated that the Beautification Grant money was coming from code compliance fines.

Community Development Director Patrick Sullivan explained the grant applicants' situation.

Public Comment Open.

None

Public Comment Closed.

Motion: A motion was made by Commissioner Osterman to approve item number 3 of the Consent Agenda subject to conditions being placed for paying back of the Beautification Grant; 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. 17-2008 – Sidewalk Repair

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING CHAPTER 72, ARTICLE I, ENTITLED “STREETS, SIDEWALKS AND OTHER PUBLIC PLACES”; PROVIDING FOR THE CREATION OF NEW CODE SECTION 72-2 REQUIRING PROPERTY OWNERS AND OTHER RESPONSIBLE PARTIES WHOSE PROPERTY ABUTS OR IS ADJACENT TO SIDEWALKS, TO MAINTAIN SIDEWALKS IN A SAFE CONDITION; PROVIDING FOR NEW CODE SECTION 72-3 TO BE ENTITLED “ENFORCEMENT”; PROVIDING FOR THE AMENDMENT ARTICLE II, SECTION 72-31 ENTITLED “PERMIT”; PROVIDING FOR THE AMENDMENT OF SECTION 72-32 ENTITLED “REPLACING SUBGRADE AND PAVEMENT”; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Community Development Director Patrick Sullivan explained the reason for Ordinance No. 17-2008 and the changes made.

Commissioner Osterman expressed her concerns with the ordinance.

Commissioner Balius also expressed his concerns with the ordinances.

Mayor DuBois spoke about her experience with companies coming in to do work on her property and the possibility of damaging the sidewalks.

Vice-Mayor Daly stated sidewalks should be reinforced with thicker concrete so that they are not damaged or cracked when vehicles drive over them.

Town Manager Maria Davis stated that the Town requires thicker concrete for specific sidewalks but it is not stated in the code.

Commissioner Balius recommended that companies obtain permits before digging around sidewalks.

Community Development Director Patrick Sullivan stated that companies such as Seacoast Utility are required to obtain permits when doing work that involves sidewalks.

Town Manager Maria Davis stated that staff needed direction with the sidewalk ordinance.

Commissioner Balius stated that if a resident breaks their sidewalk they should be responsible for fixing the sidewalk.

Town Manager Maria Davis stated that residents were responsible for repairs to their sidewalks in other municipalities that she has worked for in the past.

Attorney Thomas Baird stated that giving the responsibility of the repair of cracked sidewalks to the Town could pose a liability issue. If the responsibility of the sidewalk is given to the property owner then they could be potentially liable, but since the Town owns the sidewalk they could also be named in any potential suits. He explained that the language in the Ordinance was trying to minimize liability.

Discussion ensued among the Commissioners regarding Ordinance No. 17-2008.

Public Comment Open.

None

Public Comment Closed.

The Commission came to consensus to revise Ordinance No. 17-2008 and bring it back to a subsequent Commission meeting for approval.

ORDINANCE NO. 19-2008 – Final Budget Amendment

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING THE TOWN BUDGET FOR FISCAL YEAR 2007-2008 AS PREVIOUSLY ADOPTED BY ORDINANCE NO. 24-2007; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE.

Finance Director Anne Costello explained the reason for Ordinance No. 19-2008.

Public Comment Open.

None

Public Comment Closed.

Motion: A motion was made by Commissioner Carey to approve Ordinance No. 19-2008; 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.

Attorney Thomas Baird read Ordinance No. 19-2008 by caption-only.

DISCUSSION AND POSSIBLE ACTION

Public Fishing at Lake Shore Park

Town Manager Maria Davis stated that the renovations to Lake Shore Park have made the park more attractive for fishing. She stated that the new benches were being used to clean fish which has created knife marks and the PVC irrigation pipes are being used as fishing pole holders. She asked the Commission if they wanted to allow fishing at the park and to install fish cleaning stations.

Commissioner Balius stated that the park closes at sundown and benches at the park were thrown into the water after hours.

Commissioner Carey stated that the park has been a hot spot for fishing for many years.

Mayor DuBois clarified to the Commission what Town Manager Maria Davis was requesting.

Commissioner Osterman expressed her concerns with fishing at Lake Shore Park.

Discussion ensued among the Commissioners regarding fishing at Lake Shore Park.

The Commission came to consensus to install rod holders and cleaning stations on the south end of Lake Shore Park and to prohibit fishing past the curve at the bulkhead going towards the north end of the park.

Marina Fishing Pier Hours

Mayor DuBois recommended that the fishing pier hours be extended at the Marina.

Discussion ensued between the Commissioners regarding extending the fishing pier hours at the Marina.

Marina Director Mike Pisano stated that there would not be any problems with extending the fishing hours. He stated that the fishing pier hours would need to be extended from 9 p.m. to 11 p.m.

Motion: A motion was made by Commissioner Balius to approve extending the fishing pier hours at the Marina from 9 p.m. to 11 p.m.; 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.

Recreation Facility

Town Manager Maria Davis stated that she provided three different options to the Commission for approval of a new recreation facility. She stated that the first option would be to purchase a single family home at an estimate of \$250,000. The second option would be to enclose the 7th St. pavilion for an estimate of \$21,000. Option three would be to purchase a new trailer. She asked the Commission to direct staff.

Discussion ensued among the Commissioners regarding the options for a new recreation facility.

Commissioner Carey expressed his concerns with the purchase of a new trailer as a recreational facility.

Motion: A motion was made by Commissioner Osterman to approve the purchase of a new trailer with the appropriate additions for a new recreation facility; 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 3-2.

Commissioner Balius stated that purchasing a trailer as a new recreational facility would be the fastest and easiest way to solve the recreational facility issue until a new recreational building could be built at the 7th St. ball fields. He asked what would be done with the old trailer.


Recreation Director Greg Dowling stated that the trailer would be hauled away at a cost of \$2000.

Commissioner Balius recommended using that trailer at Public Works for storage.

Recreation Director Greg Dowling stated that the trailer leaks and is infested with mold.

ADJOURNMENT

There being no further business to come before the Commission and after a motion to adjourn by Commissioner Balius and seconded by Vice-Mayor Daly, and by unanimous vote, the meeting adjourned at 9:43 p.m.



Mayor DuBois



Deputy Clerk Jessica Shepherd



Town Clerk Virjan Mendez Lemley



FLORIDA

Approved on this 3 of December 2008.