



Minutes
Town of Lake Park, Florida
Special Call Commission Meeting
October 21, 2009 6:05 p.m.
Town Commission Chambers, 535 Park Avenue

The Town Commission met for the purpose of a Special Call Commission Meeting on Wednesday, October 21, 2009 at 6:05 p.m. Present were Mayor DuBois, Vice-Mayor Carey, Commissioners Daly, Rumsey, and Osterman, Attorney Thomas Baird, Town Manager Maria Davis and Town Clerk Vivian Lemley.

Mayor DuBois led the invocation and the Pledge of Allegiance.
Town Clerk Vivian Lemley performed the Roll Call.

At 6:07 p.m. Mayor Dubois announced that the meeting would convene and the Commissioners would go into an Attorney-Client Session. Pursuant to and as authorized by Section 286.011 (8), Florida Statutes with its Town Attorney, Thomas J. Baird, and Town Manager Maria V. Davis to discuss pending litigation, in which the Town is presently a party, specifically the United States of America v. the Town of Lake Park, Florida, et. al)

Mayor DuBois reconvened the Special Call Commission Meeting at 6:30 p.m.

ADDITIONS/DELETIONS/APPROVAL OF AGENDA

The Agenda was changed to allow the Department of Environmental Protection to conduct their workshop whenever they arrive.

Motion: A motion was made by Commissioner Osterman to approve the Agenda as modified; Vice-Mayor Carey made the second.

Vote on Motion:

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

Motion passed 5-0.

BOARD APPOINTMENT

Application for Board Appointment of Robert Dow as an Alternate Member of the Library Board

Mr. Dow was not present. Mayor DuBois asked if the board application could be placed on the next meeting agenda of November 4, 2009 so that Mr. Dow could be present to introduce himself.

PUBLIC and OTHER COMMENT

Steven Hockman, 638 Flagler Blvd. – thanked Town Manager Maria Davis, Public Works Director Michael Arnold, and Finance Director Anne Costello for taking time to meet with him to discuss the parking meters. He stated that he was disappointed because Ms. Davis did not allow him to record the meeting. He stated that there was nothing that they could show him to prove his figures on the parking meters wrong other than the fact that the money for the Code Enforcement would be coming out of the General Fund. He expressed his concerns and issues with the meeting that took place and the money spent on the parking meters. He stated that the Town's people wanted the Commission to create a document that would show all funds and expenses from the meters under a meter account.

CONSENT AGENDA:

1. Special Call Commission Meeting Minutes of September 23, 2009
2. Special Call Commission Meeting Minutes of September 30, 2009
3. Expert Witness Services for Marina Litigation
4. Calvin, Giordano, & Associates Additional Professional Services Contract for Lake Shore Drive Drainage Project
5. Resolution No. 50-10-09 Florida City Government Week
6. Resolution No. 51-10-09 Changes to Fee Schedule to Add Parking Meter Fees and Expired Meter Fine Amounts
7. Amendment to Community Development Department Positions
8. Resolution No. 52-10-09 Job Descriptions for Parking Enforcement/Code Compliance Officer
9. Approval of a Lease Agreement with Dunkin Donuts for Lease a Portion of Town Land to Dunkin donuts for Additional Parking

Public Comment Open.

None

Public Comment Closed.

Commissioner Daly asked that items 6, 7 and 8 be pulled from the Consent Agenda for discussion and clarification.

Motion: A motion was made by Commissioner Rumsey to approve items 1 through 5 and 9 of the Consent Agenda; Vice-Mayor Carey made the second.

Vote on Motion:

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

Motion passed 5-0.

Commissioner Daly asked that the items pertaining to charges and fees for the parking meters be more detailed.

Town Manager Maria Davis stated that the only change that was made was number 37 which gave the Town Manager authorization to issue parking meter discounts, passes and bulk purchases. She stated that it was the only change made since the Commission received the Agenda last Friday night.

Commissioner Daly stated that his concern was that if the Town were to give parking meter discounts it could cause issues by giving one person a discount and not another.

Vice-Mayor Carey explained that the discount would be for special occasions only.

Commissioner Daly expressed his concerns with giving out discounts.

Town Manager Maria Davis stated that she was very aware of the grants that the Town has received for the Marina and would be very cognizant in making sure they are not discriminating against outside groups versus Lake Park groups.

Commissioner Daly asked Town Manager Davis for clarification on item #7 of the Consent Agenda.

Town Manager Davis explained that a Code Enforcement Officer requested to be laid off and in lieu of hiring back a full time person with benefits it would be more beneficial to the Town to hire multiple part-time people for Code Enforcement and Parking Enforcement. She explained that they were converting the full-time position and it would not need to amend the budget because there was not a cost differential. They would be deleting a full-time position and creating multiple part-time positions to accommodate the Code Enforcement and Parking Meter

Enforcement.

Commissioner Rumsey asked if the part-time employees would be taking up the majority of the weekend work and early morning and late evening work so that the full-time Code Enforcement employees would not need to be called on at those times.

Commissioner Daly asked if the salaries of the part-time employees would exceed that of one full-time Code Enforcement employee.

Town Manager Davis stated that the part-time salaries would not exceed one full-time salary. She stated that part-time workers could work for a total of 46 hours and be at the same salary as a full-time worker. She stated that it was simply changing the job description to include parking meter enforcement.

Motion: A motion was made by Vice-Mayor Carey to approve items 6 through 8 of the Consent Agenda; Commissioner Daly made the second.

Vote on Motion:

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

Motion passed 5-0.

ORDINANCE ON 2nd READING:

ORDINANCE NO. 14-2009 – Florida Public Utilities

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, ADOPTING AND RENEWING A GAS FRANCHISE WITHIN THE TOWN OF LAKE PARK FOR THE FLORIDA PUBLIC UTILITIES COMPANY, ITS SUCCESSORS AND ASSIGNS; PROVIDING FOR THE IMPOSITION OF PROVISIONS AND CONDITIONS RELATING TO THE FRANCHISE; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Public Comment Open.

None

Public Comment Closed.

Mayor DuBois explained the reason for Ordinance No. 14-2009

Motion: A motion was made by Vice-Mayor Carey to approve Ordinance No. 14-2009 upon 2nd reading; Commissioner Rumsey made the second.

Vote on Motion:

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

Motion passed 5-0.

Attorney Thomas Baird read Ordinance No. 14-2009 by caption-only.

MINI WORKSHOP

Florida Department of Environmental Protection Personnel Will Be Present to Answer Various Questions of Commissioners Regarding the Marina

Town Manager Davis introduced Ms. Jennifer Smith from the Department of Environmental Protection and asked her to come to the podium and answer questions for the Commissioners regarding the Marina.

Commissioner Daly asked why they were told by the DEP that it would cost \$80,000 per year to have a restaurant at the Marina. He stated that when they asked for permission to build the restaurant they were informed that the cost would be approximately 1 million plus other costs that would far outweigh the benefits.

Ms. Smith asked if an amendment to the deed restriction had been discussed.

Commissioner Daly stated that there was not a discussion about a deed restriction amendment.

Ms. Smith explained that typically the DEP collects 6% of generated revenue from an establishment. She stated that a request for a restaurant would be something that she would have to discuss with counsel.

Commissioner Daly stated that he wanted to know what the process was to submit a request to the DEP and that something in writing would be preferred.

Ms. Smith explained that the Town has been through the processes necessary to request permission from the DEP to do certain projects at the Marina.

Commissioner Daly asked if the Town was required to pay a continuous fee from the restaurant's revenue.

Ms. Smith stated that she did not know for sure but other deed restrictions from other facilities have required a percentage of revenue. She stated that she did not make that decision but it was counsel that would determine that requirement.

Commissioner Daly expressed his concerns regarding having any issues arise after the building of a restaurant at the Marina.

Ms. Smith explained that the Town should come to the DEP and have discussion with them before starting any projects at the Marina.

Commissioner Daly stated that Mr. Adams from Tallahassee was the person who had sent the Town information stating that the Town would be charged a percentage of the restaurant's revenue.

Ms. Smith addressed Commissioner Daly's concerns and asked that he bring a clear proposal of what the Town wanted to do at the Marina and then the counsel would be able to give clear direction and requirements on that proposal but would not be able to give him a general list of requirements for any and all projects done at the Marina.

Commissioner Rumsey asked if the Town came to the DEP with a request for a restaurant and if a permit was approved. He also wanted to know if the DEP asked for a percentage would that percentage rate be fixed or adjustable.

Ms. Smith stated that she believed that the rate would be fixed, but that she would check into that to give him a firm answer to that question.

Mayor DuBois asked for clarification on whether or not the DEP would allow permits for any construction at the Marina without first confirming that those projects follow DEP requirements.

Ms. Smith stated the DEP was aware of everything that has taken place at the Marina and what the deeds say. She stated that the DEP would not issue anything now that was not consistent with the deed restrictions.

Vice-Mayor Carey asked if the Town had ever started a project in the past without going to the DEP first.

Ms. Smith stated that she did not know of any of projects done by the Town without DEP approval.

Town Manager Davis stated that Ms. Smith had received a request from Town staff for a retention pond in the center of the north end of the Marina. The Town wanted to add an 18 inch strip of impervious surface for parking. She asked if it would violate the Town's storm water permit.

Ms. Smith explained that the addition of the 18 inch strip would not be considered a violation.

Town Manager Davis stated that it was her understanding that since they were doing the as built, they learned that there was more pervious surface than is required of the permit.

Ms. Smith stated that she did not recall that specific portion of the permit.

Town Manager Davis explained that the engineer who designed the Marina failed to properly close out the permits. When the Town went to the DEP to get clarification on the proposed parking additions, she had to get Calvin Giordano and Associates to do "as built" because the permits at the Marina were not properly closed out.

She asked if the Town wished to have the deed restrictions amended, what approach would Ms. Smith suggest for the Town to take with Tallahassee.

Ms. Smith stated that the district office does not handle deed restrictions or their amendments. She stated that they are handled through the staff in Tallahassee. She suggested that the Town come to her first to discuss what they want to do and she would then get the Town in contact with Scott Woolem, Bureau Chief who would take the lead and is the key contact person in Tallahassee. Ultimately any deed amendments would go to the Board of Trustees for approval.

Town Manager Davis stated that there was a 120 foot charter vessel in the Marina's basin and the Commission would like to use it as a floating restaurant one or two nights a week. She asked if there would need to be permitting or approval from the Board of Trustees.

Ms. Smith recommended that the Town receive approval from the Board of Trustees.

Commissioner Daly asked if Ms. Smith worked with the staff in Tallahassee.

Ms. Smith stated that she worked with staff from Tallahassee.

Commissioner Daly explained that the deed restrictions were holding up the process for projects that would generate revenue for the Marina.

Ms. Smith stated that not all deed restrictions would be removed but the goal would be to keep the Marina as a public source for access to the water.

Commissioner Daly suggested that the Town start moving in the direction of getting information

on what kind of modifications could be done on the deed restrictions.

Ms. Smith recommended that the Town put together a list of those specific things that the Town wants to do for revenue at the Marina and bring it to the DEP so that it can go up the chain of command for approval.

Commissioner Rumsey asked how long it would take to get an answer on a request.

Ms. Smith stated that the request would take at least six months.

Town Manager Davis thanked Ms. Smith for her time.

DISCUSSION AND POSSIBLE ACTION:

Authorize Town Attorney to Execute a Stipulation with the USA

Town Attorney Thomas Baird gave a brief history of the case between the Town and the United States of America. He stated that the Town's attorneys have been working together with the Department of Justice to find a method of election that would provide for inclusion for minorities that reside and vote in the Town. He stated that the attorneys have reached an agreement with the Department of Justice where the Town would enter into a Consent Decree that would provide for a method of voting called Limited Voting Method. He stated that he previously outlined the terms of that method for the Commission. He explained that at the next election in March, all four Commission seats would be open for election and any candidate that wishes to run for a seat on the Town Commission would go through the proper channels of filing and qualifying to run for that seat. The top four vote getters would be elected to the Commission for a three year term and at the end of that term there will be another election with the same voting method. He explained that both the Department of Justice and the Town through the Consent Decree would have agreed that any violation that was alleged in the lawsuit will have been remedied. He requested a motion from the Commission to authorize him to enter into the Consent Judgment and Decree. The paperwork would be executed tomorrow between him and Attorney Adams, filed with the court and the process would then begin to amend the Charter to provide for the Limited Voting Method to be utilized by the Town.

Public Comment Open.

None

Public Comment Closed.

Motion: A motion was made by Commissioner Osterman to approve the Limited Voting Method and to proceed with the amendments to the Town Charter; Commissioner Rumsey made the second.

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner			

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

Motion passed 5-0.

FPL Street Lighting Agreement to Install and Maintain Four Street Lights on Bayberry Drive

Town Manager Davis explained that the Commission had made it a priority to add street lighting throughout the Town and has asked her to find alternative methods in order to do so. She stated that there was a program that FPL offers for leasing the poles and light fixtures. She stated that she had also hired a lighting consultant in order to explore other options. She stated that FPL was still experimenting with LED lights and solar lighting. She asked the lighting consultant to come up with alternatives. She explained that FPL was offering the light pole, light fixture and the electricity for \$19.07 per month but the Town would not eventually own the pole. She stated that it would not be cost effective to the Town. She stated that she would have a presentation at the first Commission Meeting in November to discuss the lighting alternatives. She stated there would be a lease purchase option and possibly installing lighting throughout the entire Town by asking the electorate whether they would like to float a bond. She stated that she believed that it would be the most cost effective and efficient way to light up the Town. This option would abandon the FPL poles and all of their infrastructure to install all new poles. She stated that she would provide all of the options in November but would like to do the one block of Bayberry Drive as a comparison. She asked for permission to do so but if the Commission wanted to wait until the first meeting in November to review the options they could do so.

Vice-Mayor Carey asked if it would cost under \$1000 for the year to install the four light poles and how soon could they be installed.

Town Manager Davis stated that the light poles could be installed right away.

Vice-Mayor Carey asked how long it would take to install the other optional light poles.

Town Manager Davis stated that she did not have that information as of yet.

Vice-Mayor Carey asked how long the Town would have to lease the poles that are installed on Bayberry Drive.

Town Manager Davis stated that as soon as the poles are installed the lease payments begin. She

stated that she was concerned about the leasing of the pole from a fiscal standpoint.

Vice-Mayor Carey asked if the Town would have to maintain the light bulbs on the poles.

Town Manager Davis stated that the maintenance of the light bulbs would be included in the lease.

Commissioner Rumsey asked if the Town went to a new system of lighting and no longer used the FPL poles they would not be responsible for continuing to pay a lease.

Town Manager Davis explained that there would not be the cost of a lease on the new lighting system. The Town would only be responsible for the maintenance of the poles and the difference in the maintenance costs was remarkable. She stated that LED was very easy to maintain and the difference in the power costs was also remarkable.

Commissioner Rumsey stated that with the LED lights you do not lose lumens as quickly as the other lighting poles and with the LED lighting the power lines could possibly be buried.

Town Manager Davis stated that burying the power lines was one of the options that would be presented to the Commission. She stated that lighting alternatives and their estimates would be presented to the Commission at the first meeting in November.

Commissioner Osterman asked if the FPL poles would be removed once the Town decides on an alternative lighting system.

Town Manager Davis stated that the FPL poles and infrastructure would be completely removed once the other lighting system is installed.

Vice-Mayor Carey asked how long the FPL lease was.

Town Manager Davis stated that she did not have that information and would bring it back to the Commission.

Commissioner Osterman stated that she did not want the Town to get stuck with paying for poles that cannot be used.

Town Manager Davis stated that the FPL contract was a 10 year contract and would have to see if the contract could be broken.

Public Comment Open.

None

Public Comment Closed.

Motion: A motion was made by Commissioner Osterman to Defer the FPL Street Lighting Agreement to Install and Maintain Four Street Lights on Bayberry Drive ; Vice-Mayor Carey made the second.

Vote on Motion:

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

Motion passed 5-0.

COMMISSIONER COMMENTS, TOWN ATTORNEY, TOWN MANAGER:

Commissioner Rumsey announced that next Wednesday night October 28, 2009 at 6 p.m. there will be a community workshop on sober houses taking place in the Commission Chamber.

Vice-Mayor Carey announced that the Kiwanis Club would be hosting a Halloween party at the Marina on October 30th.

Commissioner Daly asked Town Manager Davis if the owners of the yacht at the Marina was still interested in having a restaurant on the yacht once or twice a week.

Town Manager Davis stated that the Captain of the yacht was positive about a possible restaurant but after speaking with Ms. Smith there would need to be approval from the DEP.

Commissioner Daly recommended that the Town check into getting approval for a restaurant on the yacht at the Marina.

Commissioner Osterman stated that she was very pleased that the Town was able to resolve their issues with the Department of Justice. She stated that she was also pleased with the outcome. She thanked Attorney Thomas Baird for his guidance.

Mayor DuBois stated that she has had people comment to her about how well the Town looks and the progress that the Town has made despite the hardship of the current economy. She reminded everyone of the Sober Housing Workshop on October 28, 2009. She stated that Ellen Bagdanoff from District 91 would be including the issue of transient housing in her folder of the Legislature for 2010. She thanked Attorney Baird and the gentleman from Washington for coming to a solution that was best for the Town.

Town Attorney Thomas Baird thanked the Mayor and the Commission for their confidence. He stated that he believed that they reached a solution that would provide the opportunity for inclusion for everyone.

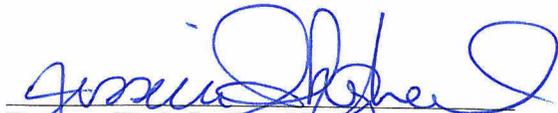
Town Manager Maria Davis stated that she attended the North County Economic Development Meeting and was pleased to hear that Lake Park was the only municipality in the County that passed a referendum for Ad Valorem tax incentives which was noted as a best practice and they were encouraging the rest of the cities in Palm Beach County to do the same. She stated that another best practice that was noted for Lake Park was its Façade Improvement Grant Program and was noted as an innovative best practice.

ADJOURNMENT

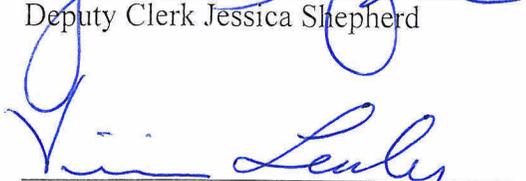
There being no further business to come before the Commission and after a motion to adjourn by Vice-Mayor Carey and seconded by Commissioner Rumsey, and by unanimous vote, the meeting adjourned at 8:08 p.m.



Mayor DuBois



Deputy Clerk Jessica Shepherd



Town Clerk Vivian Lemley



FLORIDA

Approved on this 18 of Nov., 2009.