

ORDINANCE NO. 01-2008

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, SUBMITTING TO REFERENDUM THE QUESTION OF WHETHER THE COMMUNITY REDEVELOPMENT AGENCY MAY PLEDGE OR OTHERWISE ENCUMBER TAX INCREMENT FUNDS TO FINANCE THE DOWNTOWN ALLEYWAY IMPROVEMENT PROJECT; ESTABLISHING THE DATE OF MARCH 11, 2008 FOR THE REFERENDUM; PROVIDING FOR A BALLOT TITLE AND SUMMARY; PROVIDING FOR NOTICE AND ADVERTISING OF THE REFERENDUM; PROVIDING FOR REFERENDUM CANVASSING; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to §166.021, Fla. Stat. (2007), the Town has the governmental, corporate and proprietary powers to enable it to conduct municipal government; and

WHEREAS, the Town has created a Community Redevelopment Agency (CRA) pursuant to and consistent with the provisions of Chapter 163, Part III, Florida Statutes; and

WHEREAS, pursuant to §163.370, Fla. Stat. (2007), the Town's CRA is authorized to construct or reconstruct streets, alleyways and utilities; and

WHEREAS, pursuant to §163.387, Fla. Stat. a redevelopment trust fund has been established for the Town's CRA; and

WHEREAS, §166.387, Fla. Stat. (2007), authorizes the Town's CRA to spend the tax increment monies which have been deposited into the redevelopment trust fund to finance community redevelopment, including but not limited to improvement of streets and alleyways; and

WHEREAS, the Town proposed to use tax increment monies to finance certain improvements to its downtown alleyways including, but not limited to, the replacement of concrete walls with fencing and landscaping; lighting; paving; minor drainage improvements, landscaping and irrigation; and

WHEREAS, the recent Florida Supreme Court opinion in the case styled *Dr. Gregory L. Strand v. Escambia County*, holds that should tax increment revenue be pledged or otherwise encumbered to finance the improvements recited hereinabove, it may only do so following a Referendum wherein the Town's taxpayers may be given the opportunity to approve of same; and

WHEREAS, §100.342, Fla. Stat. (2007), requires that the Town publish two (2) notices in a newspaper of general circulation in the Town, evidencing the Town's intention to hold a referendum to determine whether a majority of the qualified electors of the Town, approve of the use of tax increment funds to finance the CRA's Downtown Alleyway Improvement Project; and

WHEREAS, pursuant to §100.342, Fla. Stat. (2007), the first notice shall be published in the fifth week prior to the referendum, and the second notice shall be published in the third week prior to the week in which the election or referendum is to be held.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA:

Section 1. Referendum declared. A Referendum is hereby called for and shall be held in the Town of Lake Park, Florida on the 11th day of March 2008, to determine whether or not a majority of the electors voting in the Referendum, support the CRA's proposal to pledge or otherwise encumber tax increment funds previously collected and deposited in the CRA's community redevelopment trust fund to finance the CRA's Downtown Alleyway Improvement Project.

Section 2. Ballot title. The ballot title which is the subject of this Referendum, and by which to be commonly referred to or spoken of, shall be captioned as: "Town of Lake Park, Florida, Community Redevelopment Agency's (CRA) Downtown Alleyway Improvement Project."

Section 3. Conduct of Referendum. The Supervisor of Elections of Palm Beach County, Florida, shall determine polling locations or places and all qualified electors of the Town of Lake Park, Florida who vote in the Referendum shall vote at those designated polling places. The polls shall be opened on the date of the Referendum on the proposed Town of Lake Park, Florida Community Redevelopment Agency's (CRA) Downtown Alleyway Improvement Project from 7:00 a.m. until 7:00 p.m. on the same day. Only the duly qualified electors of the Town of Lake Park, Florida shall be permitted to vote on this Referendum question. In the event a majority of electors, voting in the Referendum vote affirmatively then the Town shall have satisfied the legal requirement pronounced in *Strand v. Escambia County* and may pledge or otherwise encumber tax increment funds to finance the CRA's Downtown Alleyway Improvement Project.

Section 4. Notice and advertising of the Referendum. The Town Clerk shall prepare and give notice of the proposed Referendum on the Downtown Alleyway Improvement Project by causing appropriate notice to be published in accordance with the provisions of §100.342, Fla. Stat. (2007), at least once each week during the third and fifth weeks preceding the week in which the Referendum to consider the Downtown Alleyway Improvement Project is to be held. The publications shall be placed in the *Palm Beach Post* a newspaper of general circulation within the Town. The Town Clerk shall secure from the publisher of the newspaper, an appropriate affidavit of proof that the statutorily required Referendum notices have been duly published, as herein set forth and these two affidavits shall be part of the record of the Town Commission.

Section 5. Ballot summary. The ballot summary concerning the Downtown Alleyway Improvement Project shall be:

SHALL THE TOWN'S COMMUNITY REDEVELOPMENT AGENCY ("CRA")
BE PERMITTED TO PLEDGE OR OTHERWISE ENCUMBER UP TO \$1.3
MILLION OF COLLECTED TAX INCREMENT FUNDS TO FINANCE THE

CRA'S DOWNTOWN ALLEYWAY IMPROVEMENT PROJECT, INCLUDING BUT NOT LIMITED TO, THE PAVING, FENCING, LANDSCAPING, IRRIGATION, AND DRAINAGE PORTIONS OF THE PROJECT?

YES FOR APPROVAL OF DOWNTOWN ALLEYWAY IMPROVEMENT PROJECT

NO AGAINST APPROVAL OF DOWNTOWN ALLEYWAY IMPROVEMENT PROJECT

Section 6. Canvassing. The election returns of the Referendum shall be canvassed in the manner provided by law, and the returns shall be certified to the Town Commission, which shall declare the result thereof. Upon canvassing the returns of the Referendum, the result of the Referendum shall be recorded in the minutes of the Town Commission in the manner prescribed by law.

Section 7. Effective date. This Ordinance shall take effect immediately upon adoption.

Upon First Reading this 16 day of January, 2008, the foregoing Ordinance, was offered by Commissioner Balius who moved its approval. The motion was seconded by Commissioner Carey, and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR PAUL CASTRO	<u>Absent</u>	_____
VICE MAYOR ED DALY	<u>✓</u>	_____
COMMISSIONER CHUCK BALIUS	<u>✓</u>	_____
COMMISSIONER JEFF CAREY	<u>✓</u>	_____
COMMISSIONER PATRICIA OSTERMAN	<u>✓</u>	_____

PUBLISHED IN THE PALM BEACH POST THIS 27 DAY OF January, 2008

Upon Second Reading this 6 day of February, 2008, the foregoing Ordinance, was offered by Commissioner Balius who moved its adoption. The motion was seconded by Commissioner Osterman, and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR PAUL CASTRO	<u>✓</u>	_____
VICE MAYOR ED DALY	<u>✓</u>	_____
COMMISSIONER CHUCK BALIUS	<u>✓</u>	_____
COMMISSIONER JEFF CAREY	<u>✓</u>	_____
COMMISSIONER PATRICIA OSTERMAN	<u>✓</u>	_____

The Mayor thereupon declared **Ordinance No. 01-2008** duly passed and adopted this 6 day of February, 2008.

TOWN OF LAKE PARK, FLORIDA

BY: Ed Daly
for Mayor, Paul Castro

ATTEST:

Urvian Mendez
Town Clerk, Urvian Mendez
(Town Seal)



FLORIDA

Approved as to form and legal sufficiency:

Thomas J. Baird
Town Attorney, Thomas J. Baird