



AGENDA ITEM MEMORADUM

Finance

Tony Bryan, Finance Director

Department

Department Director

COMMISSION MEETING DATE (*) - 7:00 PM
<input checked="" type="checkbox"/> May 8, 2012

***Subject to Change**

- Presentation Reports Consent Ordinance
- Resolution Quasi-Judicial Old Business New Business

FY2012 DESIGNATED HIGH PRIORITY ITEM - PRIORITY TOPIC

SUBJECT TITLE: Fire Assessment Fees

EXPLANATION:

In 2004 the Town contracted with Government Services Group, Inc. (GSG) to develop and implement a Town-wide assessment program to fund fire protection services for FY2004-05 and FY 2005-06. GSG recommended an apportionment methodology based on fire call data from calendar year 2003 that allocated 87% of the cost of providing fire service to residential properties and the remaining 13% to non-residential properties. GSG recommended a fixed cost per dwelling unit for residential properties and tiered fees based on square footage for non-residential properties. GSG's recommendations were adopted by the Town Commission.

When the Town transitioned back to a volunteer fire department in 2007, the Town engaged Burton & Associates to design an updated Fire Service Assessment Program. Burton suggested that the benefit received from fire protection service was correlated to square feet of developed space. He recommended an apportionment methodology that was based on a cost per 1,000 square feet of developed space, with a differential between residential and non-residential properties. The Town Commission opted to continue using the methodology that was developed by GSG in 2004 but reduced the fire assessments by approximately 50% to reflect the lower costs being incurred with the return to a volunteer fire department.

In 2009 Burton was contracted to determine the sufficiency of the fire assessment fees to cover projected costs over the 5-year period FY 2010 – FY 2014. They were *not* asked to evaluate the assessment rate structure or the cost allocation between residential and non-residential properties. Their projections indicated that the Town could keep the rate the same in FY 2010, 2011 and 2012, but expect a 3.25% increase in FY 2013 & 2014. The Town Commission accepted Burton's recommendation and left the assessment rates the same in FY 2010, 2011, and 2012.

Soon after the 2009 Burton Report was issued, hotelier Arthur Franczak raised two questions to then-Town Manager Esther Colon about the conclusions that were reached by the Burton Report as follows:



1. Mr. Franczak questioned whether it was appropriate to allocate 13% of the cost for providing fire service to non-residential properties. Mr. Franczak opined that there had been a significant decline in non-residential units since the allocation was done in 2004, but the percentage of total costs allocated to non-residential properties had not changed. He suggested that the remaining non-residential units were paying a disproportionate share of the Town's fire service costs.
2. Mr. Franczak also questioned the data used in Burton's analysis and the Town's cost apportionment methodology as it relates to commercial properties. Specifically, Mr. Franczak said that there were at least two commercial properties in Town that were more than 40,000 square feet and that the use of a tiered fee structure (rather than a fixed cost per square foot like the one that was recommended in 2007) results in an inequitable allocation in favor of the largest non-residential properties. Burton checked the data set used in the study and confirmed that the properties that Mr. Franczak identified were, in fact, included in their study.

(The tiered rates for non-residential properties in the current rate structure break down as follows:

Sq. Footage	Fire Fee
< 1,999	\$249.50
< 3,499	\$499.00
< 4,999	\$ 872.50
< 9,999	\$1,246.50
< 19,999	\$2,493.00
< 29,999	\$4,985.50
< 39,999	\$7,478.00
> 39,999	\$9,971.00)

Burton responded that an evaluation of the apportionment of costs was not included in the scope of work assigned to them and that the apportionment methodology that he recommended in 2007 was not adopted by the Town Commission. **(Exhibit 1)**

At a Commission meeting in September 2011, Mr. Franczak raised these issues again. Commissioner Dodd suggested that a study be undertaken to evaluate the changes to the Town's property use categories (i.e., residential vs. non-residential) since 2004 to ascertain whether the 87% residential / 13% non-residential apportionment that was established in 2004 is still valid. **(Exhibit 2 - Minutes)** He felt that such a study would address the concerns raised by Mr. Franczak without incurring the cost of a "full-blown" fire assessment study.



Recently when getting prepared to do the analysis Commissioner Dodd requested, staff reviewed the 2004 files and saw that the allocation methodology was based on fire call data, not on the number of properties categorized as residential or non-residential. We then requested and reviewed summary reports showing total fire service calls by property type for last fiscal year (FY11) and for the current fiscal year to date year-to-date (thru April). Over the past 19 months the distribution of fire service call volume has been approximately 70% residential / 30% non-residential, removing those calls that were not property-specific. That would indicate the apportionment established in 2004 is not reflective of the current activity. Since the recent years' data was so different from the 2003 data, we then pulled the FY10 fire call data. It was much closer to the 2003 data but still reflected an increase in non-residential fire call activity, with 84% of the fire calls involving residential property and 16% of the calls to non-residential property. The call volume did not change materially from 2010 to 2012, but the distribution of calls did.

In the next several months, the Commission will have to decide what fire assessment fees the Town will adopt for FY 2013. The Broward County Property Appraiser has advised us that the deadline for making material changes to the assessment (such as changing the methodology for setting the fees, creating additional square footage tiers or new categories, etc.) is May 1st of the each year, for application in the following year. However, the Town can still change the fees and the allocation within the current methodology and has until August 4 to adopt and notify the Property Appraiser of the preliminary-adopted Fire Assessment fees. Adjusting the apportionment of fees to reflect the proportional fire call data between residential and non-residential properties that has occurred in the past 19 months would cause very significant increases in fees for non-residential properties.

Any discussion of the fire fees should also consider how much revenue we need to raise through those fees to pay for fire protection services. That means we need to project the Fire fund balance, determine the desired fund balance, and anticipate future spending. Our preliminary budget projections certainly do not indicate any need to increase the amount of money the fire fees produce. As of September 30, 2011 the balance of the Fire Fund was \$485,980. At the end of the current fiscal year we project that the fund balance will be approximately \$335,000 (due to having appropriated money from the fund balance to purchase a new fire truck). That fund balance is legally restricted to pay for fire protection-related expenses. We have asked the VFD to prepare a five year plan for capital expenses, which will assist you in a discussion of what is the desired fund balance over the next several years. The VFD will be submitting their operating budget request later this month, and that too will affect the discussion on how much revenue the fire fees should produce and whether we can consider a reduction in the overall revenue generated by the fire fees.



EXPECTED OUTCOME:

While we wait for the VFD's five year capital plan and FY 13 budget request, staff needs the Commission's direction on whether 1) you wish us to hire a consultant experienced in fire assessment rate studies to review the fire call data and quickly advise the Town (i.e. by mid-July) on a fair and equitable percentage allocation for next year, 2) and/or if you wish to include funds in the FY 13 budget to hire a consultant to do a comprehensive study of the Town's fire fees and potentially propose alternative methodologies for you to consider for subsequent fiscal years.

EXHIBITS:

Exhibit 1: E-mail from Michael Burton dated June 15, 2010

Exhibit 2: September 12, 2011 Special Public Hearing Minutes on Fire Assessment Fee

Reviewed by Town Attorney
 Yes No

Town Manager Initials CA

Connie Hoffmann

From: Michael Burton [mburton@burtonandassociates.com]
Sent: Tuesday, June 15, 2010 4:10 PM
To: Connie Hoffmann
Subject: Fwd: FW:

Connie,

I finally found the email that I sent to Esther Colon in response to Mr. Francsak's e-mail. I have forwarded it to you with this e-mail. If you have any further questions, or if we can be of assistance to the Town, don't hesitate to call me.

Sincerely

--

Mike

Michael E. Burton
President
Burton & Associates, Inc.
200 Business Park Circle, Suite 101
St. Augustine, Florida 32095
(904) 247-0787 - Office Phone
(904) 241-7708 - Office Fax
(904) 923-1466 - Cell

----- Forwarded message -----

From: Michael Burton <mburton@burtonandassociates.com>
Date: Wed, Sep 30, 2009 at 5:41 PM
Subject: FW:
To: Esther Colon <lbtscolon@bellsouth.net>
Cc: Kevin Krueger <kkrueger@burtonandassociates.com>

Esther,

I have reviewed Mr. Franczak's e-mail. He raises two basic concerns - reapportionment of costs and potential exclusion of properties.

With regard to his concern about reapportionment of costs, our scope was to determine adjustments to the current assessment rates to derive the required costs of providing fire service based upon the current assessment rate structure. Therefore, reapportionment of costs was not included in our scope.

With regard to his second concern, Mr. Franczak says that the data set in the 2007 study does not show any non-residential properties that are above 40,000 sq ft in the town and that there are at least 2 such properties in

the town. The 2007 study that we performed was never implemented (we have not checked Mr. Franczak's question against that data set since it is not relevant to the current assessments). However, we checked the data set used in the current study (which was derived from property data received from the Broward County Property Appraiser) and the properties referenced are in fact included.

I trust that this clarifies the issues raised by Mr. Franczak. If you need anything else or would like to discuss this, do not hesitate to call me at (904) 247-0787.

Sincerely,

Mike

Michael E. Burton
President
Burton & Associates
200 Business Park Circle
Suite 101
St. Augustine, Florida 32095
(904) 247-0787 Office
(904) 241-7708 Fax
(904) 923-1466 Cell

-----Original Message-----

From: arturosaurus@gmail.com [mailto:arturosaurus@gmail.com] On Behalf Of Arthur Franczak-Shore Haven Resort Inn
Sent: Tuesday, September 08, 2009 10:52 AM
To: mburton@burtonandassociates.com; roseannminnet@bellsouth.net; JMCINTEE@aol.com; jimsilverstone@lauderdalebythesea-fl.gov; biruteannclotey@lauderdalebythesea-fl.gov; Stuart Dodd; martai@lauderdalebythesea-fl.gov
Subject:

Dear Mr. Burton,

Please note that I am also sending a copy of this email to all members of our town's Commission and the town manager.

I am a resident of Lauderdale by the Sea and also the General Manager of the Shore Haven Resort located in Lauderdale by the Sea. I have been following the fire assessment issue in our town for years, and as I understand it the fire assessment fees currently are said to be based on your work and recommendation.

I am in possession of the fire assessment report that you have produced for our town this year as well as the one from 2007. I have a couple issues with the fire assessment, if you do not mind, and if you could comment on any of them I would be thankful.

It seems to me that in this year's fire assessment report you are still using 13 percent as the percentage of the fire costs that are assigned to non-residential properties. This is the same proportion that was used in 2004 by GSG, and, if so, it is based on fire call data that I believe is problematic to use this year again. The fire call data used by GSG is from a single year and it must date back at least to 2003. Also if I am not mistaken, GSG's methods have been challenged successfully in courts.

As you may or may not be aware our town has undergone many changes since 2003 with the net effect being that a significant number of hotel rooms disappeared and was replaced by residential units. Since the commercial area has gotten significantly smaller and residential area has gotten larger in LBTS over the last few years I find it suspect that commercial area still generates 13 percent of fire calls that it supposedly did every year starting 5-6 years ago. I say "supposedly" because when I made a public info request for fire call data at that time from the town's Fire Administrator, who has since resigned, I did not receive it so I could not verify that the non-residential area ever generated 13 percent of fire calls.

In addition, I find it unlikely that the 13 percent figure would stay constant year after year in a small town because the sample size is small, and I would expect a lot of variation in this ratio from one year to another.

The second issue has to do with the data set that you used when you made your initial recommendation for the fire assessment for our town.

Your data set in the 2007 study does not show any non-residential properties that are above 40,000 sq ft in our town. However, if you look here:

http://www.bcpa.net/RecInfo.asp?URL_Folio=494318011650

and here:

http://www.bcpa.net/RecInfo.asp?URL_Folio=494318010700

You will find that there are at least 2 such properties in town.

So there seems to be a problem with the data set that you are using. These two properties were easy to spot precisely because of their size but if they are any indication of the quality of the data set there are probably going to be more problems with this data set if examined more closely for accuracy.

At least one of these largest properties is a clear and influential outlier (90,000 sqft figure is two and a half the size of the last data point that you use), and its absence from the data set skews fire assessment fees for all other commercial properties in town.

To put it into real life context, one of my buildings that falls within the 10,000-19,999 sq ft band for years has been charged 23 cents per sq ft (\$2493/10,558sqft) but the outlier property, and my competitor, as a

direct result of the current fire assessment methodology, has been paying 10.6 cents per sq ft (\$9971/93,824sqft) for fire assessment for years.

If this outlier property also paid 23 cents per sq ft then the town would collect another \$11,000 from the non-residential part of the fire assessment. This money would then offset fire assessment fees for all other non-residential properties in town. This in turn means that all other commercial properties could see at least a 5 percent decrease in their assessment if the outlier were to be charged more in line per sq ft with what other properties in town are charged.

It seems likely to me that as a result of these two issues (shift in town's make up even more towards residential, and a faulty data set) the fire assessment fees that you are said to recommend to our town are incorrect for all commercial properties. First, commercial area in general could be paying more than its fair share based on the proportion of fire calls. If current percentage of fire calls made by non-residential properties has fallen to 10 percent since 2003, for example, then commercial properties would be overpaying by 30 percent and the residential fire assessment figure would have to be adjusted also in order to make the fire assessment legally defensible. Second, some non-residential properties could be subsidizing some other non-residential properties in town. Third, the town could be collecting more in fire assessment than it thinks/admits it does from the non-residential side because, even though, some properties might be missing from this study's data set they nevertheless pay fire assessment fees and that money is just not counted towards their classification.

I am pretty sure that until now you were unaware of these issues. If you have any comment helping me understand the town's fire assessment methodology I would be thankful.

Sincerely,

Arthur Franczak

General Manager
Shore Haven Resort Inn
4433 North Ocean Drive
Lauderdale by the Sea, FL 33308
(954) 776 5555, ext.0
(800) 552 1959

TOWN OF LAUDERDALE-BY-THE-SEA
TOWN COMMISSION
SPECIAL PUBLIC HEARING MINUTES

Jarvis Hall
4505 Ocean Drive
Tuesday, September 12, 2011
7:00 P.M.

1. CALL TO ORDER, MAYOR ROSEANN MINNET

Mayor Roseann Minnet called the meeting to order at 7:00 p.m. Also present were Vice Mayor Stuart Dodd, Commissioner Birute Ann Clotey, Commissioner Chris Vincent, Commissioner Scot Sasser, Town Attorney Susan L. Trevarthen, Town Manager Connie Hoffmann and Town Clerk June White.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. PUBLIC COMMENTS

Mayor Minnet opened the meeting for public comment.

Barbara Cole was pleased to see the fire fee reduced for Fiscal Year (FY) 2012. She added she requested that Town staff provide details to the public on the number of fully paid VFD positions and where the line was drawn before they became a paid fire department.

With no one else wishing to speak, Mayor Minnet closed the public comment portion of the meeting.

4. COMMISSIONER COMMENTS

Vice Mayor Dodd thanked Town staff for their efforts in producing the FY 2012 Budget figures. He was confident they accurately reflected the Town's financial state. Vice Mayor Dodd added that Town staff tracked down all the accounts, undertook a complete review of the Town's financial system, and dealt with personnel changes.

Commissioner Clotey echoed Vice Mayor Dodd's commendations. She hoped the millage rate could be lowered, as the Town had sufficient reserves due to the diligence of past Town administrations that should not be undone by overspending.

Mayor Minnet thanked members of the public for attending the meeting, providing their input and being a part of the budget process. She added that Town staff worked hard to keep the millage rate the same for the last three years, and there were improvements

planned for the community. Mayor Minnet said that the parking debt was re-structured to save the Town money, along with the use of other money-saving measures over the past year.

Commissioner Vincent also thanked staff for their hard work throughout the budget process. He referenced Resolution 2011-27 and clarified that the reduction in the fire fees pertained only to the fire inspection fees for new construction, not the fire assessment.

Commissioner Sasser echoed the thanks of his fellow Commissioners.

5. RESOLUTIONS

- a. RESOLUTION 2011-27- A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, ESTABLISHING THE FINAL FIRE ASSESSMENT RATE ON PROPERTY THAT IS SPECIALLY BENEFITED BY FIRE PROTECTION SERVICES FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2011 AND ENDING SEPTEMBER 30, 2012; CONFIRMING THE FINAL ASSESSMENT ROLLS AND LEVYING SUCH SPECIAL ASSESSMENTS

Mayor Minnet confirmed the residential fire assessment rate was \$130.

Mayor Minnet opened the meeting for public comment.

Arthur Franczak believed that many businesses overpaid the fire assessment fees at 13%. Mr. Franczak stated that the backup did not reveal the methodology used to calculate the 13% and the ratio had not been justified. He believed the fire assessment deserved two readings and suggested beginning that process for the next fiscal year.

Yann Brandt commended the great service the VFD (Volunteer Fire Department) did for the Town, but thought the separation between the Town and fire department was becoming blurred in many ways. Town staff should provide residents with an annual review of the VFD's expenditures, how they were connected to the Town's budget, and push those forward to find ways to reduce the fire assessment.

Barbara Cole agreed with holding two hearings for the fire assessment and hoped the fire assessment would not be increased, as indicated by Burton & Associates. She did not favor a sliding scale for fees related to any public safety service. Ms. Cole supported the need for extensive discussions of the VFD as to whether it was a part of, or under the Town, or whether they were still a volunteer fire department.

With no one else wishing to speak, Mayor Minnet closed the public comment portion of the meeting. She questioned how to go about holding two hearings for the fire assessment fee; that is, via an ordinance, resolution, or in the Town Charter.

Town Attorney Trevarthen replied such a policy could be established by an ordinance, though, traditionally, a resolution was drafted along with the budget.

Vice Mayor Dodd met with Town Manager Hoffmann and raised the concerns expressed by a resident/business owner regarding the division of fire assessment budget as 87% residential and 13% business. He believed this ratio was established in 2004 and various changes had taken place since then. Vice Mayor Dodd said that the residential proportion had increased and Oriana and Minto, and businesses, such as Pier Pointe had been lost. He stated that a new Town survey would cost about \$30,000 and suggested a new study be conducted only on changes since 2004, as that would be a more economical method of evaluating if the current ratio was still fair. Vice Mayor Dodd did not agree with Burton & Associates' report as to the need to increase the fire assessment in FY 2013. He explained that even after the purchase of the new fire truck the budget figures showed \$110,000 would be put aside into three reserve funds. He said he would ask staff if it were possible to lower the fire assessment fee for the next fiscal year.

Vice Mayor Dodd made a motion to approve Resolution 2011-27. Commissioner Sasser Seconded the motion. The motion carried 5-0.

- b. RESOLUTION 2011-28 - A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE BY THE SEA, FLORIDA, ESTABLISHING AND ADOPTING THE TENTATIVE TOWN AD VALOREM TAX MILLAGE RATE AT 3.9990 MILS PER THOUSAND DOLLARS OF TAXABLE ASSESSED VALUE, WHICH IS 1.88% BELOW THE ROLLED BACK RATE COMPUTED PURSUANT TO STATE LAW, FOR THE 2011 TAX YEAR; ANNOUNCING THE SECOND AND FINAL PUBLIC HEARING TO ADOPT THE FINAL MILLAGE RATE; PROVIDING FOR SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE

Mayor Minnet opened the meeting for public comment.

Barbara Cole urged the Commissioners to lower the millage rate, as she feared if new persons were elected to the Commission, they might raise the millage rate.

Authur Franczak supported lowering the millage rate, as the Town's property values were among the highest in Broward County.

Ron Piersante favored leaving the millage rate at the current 3.999 mils. He did not foresee the proposed reductions, approximately \$20 or \$30, would make much difference. Mr. Piersante believed that if the millage were lowered for FY2012, it might lead to an increase in FY2013. He stated that a number of residents indicated they were content with its remaining the same and looked forward to the planned improvements that will take place in the next five years.