

TAX TIME AGAIN -- PART III: SPECIAL ASSESSMENTS TRUTH AND FICTION FROM THE DAIS

Opinion by John Thompson ©, Reprinted from *By-the-Sea Times* September 23, 2005)

One of the most depressing aspects we have encountered in over half a decade of attendance at Town Commission meetings has been the number of times we have listened to statements from the dais we knew to be untrue, or true but misleading -- possibly intentionally misleading, but have been totally powerless to intervene without running the risk of expulsion from the hall -- or worse -- at the hands of BSO. Not only do these statements often serve as the basis for important Commission decisions, but also they are delivered with such eloquence and self-assurance that I am sure many in the Jarvis Hall and television audience must often actually BELIEVE what is being said.

The recent public hearings on fire-service and Storm-water Utility Fund special assessments provided such a potpourri of inaccuracies, misleading statements and calculated misstatements of fact (We diplomats were taught never to say "lies.") that we could not resist sharing some of them with you.

When Volunteer Fire Department (VFD) President Jim Silverstone asked what had happened to the \$100,000 the VFD had requested for a 100-foot ladder truck to better serve the condos, Mayor Parker instructed Jim that the VFD should have brought a timely budget request to the Town if BSO's funding allocation to them was inadequate. Jim explained the VFD had made a request to Administrator Buchert, but Parker said no, "you must bring it to the COMMISSION'S attention."

We were told we could only communicate with the Fire Administrator," objected Silverstone. But Town Manager Baldwin intervened, "There has not been a formal VFD budget presented to the Town yet," he said, "If I'm wrong, tell me. I'd like to see the transmittal!" **(Fact: The next day the VFD provided evidence the budget was sent to Administrator Buchert July 19, 2005 at 2:57 PM.)**

Silverstone then asked about a Q&A brochure the Town circulated a while back, asking, "Will the [fire-rescue] cost increase next year?" and answering, "No, this year it is \$2.9 million and it will dip to \$2.7 million next year under the BSO agreement." Silverstone asked how that squared with a \$3 million figure the Town Manager had just quoted for next year's budget. "I think that was prepared two years ago," Baldwin replied, "and that is correct. It is \$3 million now, so obviously it has gone up again. **(Facts: the actual totals shown in The proposed 2005-06 budget document for the Fire Department (BSO and VFD) and emergency medical services (EMS) budgets for the three years in question are:**

FY 2003-04 -- \$3,049,981

FY 2004-05 -- \$3,024,158

FY 2005-06 -- \$3,069,521.)

When Silverstone asked why the Town was funding BSO's EMS costs of Advance-Life-Support (ALS) Engine 36 from the special assessment for fire services, the Mayor replied, "We do not specially assess for EMS. The way we pay for EMS is through *ad valorem* taxes. 0.85 of our 4.7 mills goes to pay for EMS." **(Facts: the *ad valorem* millage was indeed increased by 0.85 mills in 2001 to fund EMS. Next fiscal year that will yield nearly \$1.4 million. But only \$937 thousand of that will be needed to fund BSO's EMS budget, which funds their ambulance, Rescue-12, and its crew of two. That leaves some \$460 thousand in *ad valorem* taxes initially intended to fund EMS, but which are in fact now spent for other things. That's because, three cross-trained paramedics/firefighters assigned to BSO's ALS Engine 36 located at Assumption Church, were arbitrarily transferred in the 2004-05 Town budget from BSO's EMS budget to their "Fire Department" Budget.)**

When warned that some taxpayers might well sue to recover the improper portion of the fire assessment that currently funds EMS, Mayor Parker cautioned that, "If citizens successfully sued, the Commission would raise the *ad valorem* rate, in which case the taxes on the single-family homeowners would be greatly increased." **(Fact: If the Commission decided to raise the millage sufficiently to fund the entire fire department budget -- ignoring a current \$460 thousand surplus from the 0.85 mills by which taxes were raised in 2001 specifically to cover EMS, the increase would come to less than 1.3 mills. The taxes on His Honor's home and other expensive properties would indeed be "greatly increased," but the Vice Mayor and Commissioner Clark would both be paying significantly less than \$260. In fact, all homeowners with taxable assessed values less than \$200,000 would pay less under an *ad valorem* regime than under the \$260 flat tax.)**

When asked why The Town retains a consultant who has given other towns and cities bad advice on improper assessment schemes rejected by the courts, and resulting in expensive judgments, Mayor Parker replied that the difference in LBTS is that it is BSO that provides the breakdown between EMS and fire by giving us separate EMS and fire contracts. "GSG is not the one that determines the break-down between fire and EMS," the Mayor said, "it is BSO." **(Fact: In successive contracts with the Town, the Sheriff notes that the Town plans to levy a non-*ad-valorem* special assessment that must be consistent with the Supreme Court decisions, and then "agrees to provide any and all documents as requested by TOWN, or consultants retained by TOWN ... for purposes of TOWN's development of a special assessment methodology for the annual fire protection special assessment in TOWN, including, without limitation, call data and cost allocations between EMS and fire protection." [emphasis in the original contracts])**

When urged to fund all EMS costs under the *ad valorem* budget in order to avoid possible costly litigation, Mayor Parker said it had already been decided that there would be a special fire-service assessment, and that it was too late to put it in the *ad valorem* budget because they had already set the *ad valorem* rate at 4.7 mills, and it simply could not be raised. **(Fact: Had the Commission, at their first budget hearing, tentatively approved the 4.99 mills proposed by the Town Manager (always subject to possible roll-back at the second hearing) they would have had virtually enough -- including the \$460 thousand "surplus" within the 0.85 mills added to the budget for EMS in 2001 -- to permit *ad valorem* funding (as required by court decisions) to pick up the funding of the entire portion of the Fire Department budget properly attributable to EMS)**

When several speakers stressed the need to fund support already promised to the VFD to help them they regain fire-suppression responsibility for the entire Town, Mayor Parker objected, "How to reorganize the Fire Department [is not] open for discussion today!" **(Fact: Unless they give BSO notice of intent to terminate the fire-service contract by September 30, the Town may be locked into continued funding of the expensive BSO contract into FY 2006-07.)**

"And finally," Parker concluded, "Mr. Buchert is not part of the Town's Fire Budget; he's part of the Town's administrative budget.... The fire assessment does not pay Mr. Buchert's salary." **(Fact: Page 68 of the Town Manager's Proposed Annual Budget for FY 2005/06 lists, at the very top, \$91,700 in personnel expenses which while not clearly identified, can only represent at least a part of the remuneration of Mr. Frank Buchert. That figure is clearly part -- 4.3% to be exact -- of the entire \$2,040,831 fire budget to be funded by special assessment and cited by Mr. Baldwin at the start of the meeting, which also appears at the bottom of page 68.)** "[Buchert] is basically a contract administrator," the Mayor explained, "hired to help manage the contract between the Town and BSO and the VFD." **(Based on testimony at the budget hearing, "contract administrator" Buchert failed to pass on to the Town Manager or the Town Commission a critical element of the VFD's funding request: a 100-ft ladder truck required to assist the VFD in transition to a full-service provider to the Town and greatly improve service to high-rise buildings. At present there is no such equipment available anywhere in this part of the barrier island.)**

When Vice Mayor Kennedy asked what difference six dollars less per residence would make in the Town's budget, the Mayor hastily replied, "About \$100 thousand." After a short conversation with the Town Manager, he revised that to, "about \$65" **(Fact: The 1004 GSG Report stated that based on the preliminary 2004-05 assessment rolls, there were 7151 "residences" in the Town. At \$6.00 per residence that would come to \$42,906. If, in fact the true difference was \$65.00, the number of residences must have increased by more than 50% during the past year.)**

Commissioner Wessels said he had read in the paper the fire assessment rate in Lauderdale Lakes was \$226.30, and in Weston \$223.93. **(Fact: A spokesman for Weston told By-the-Sea-times today their rate had been set at \$220.76, the highest rate we had come across anywhere in the County.)**

Commissioner Yanni said he thought \$260 was a good deal, because, in effect, "you're getting two fire departments for \$260" **(Facts: Or, breaking it down, on the basis of unit cost, you might say we are getting two fire engines, a Chief, and at least a dozen dedicated firefighters at any given incident from the VFD for \$41.60 a year, one ALS Engine and three cross-trained EMS/firefighters (more than three-fourths of whose time is spent on EMS duties -- not fire suppression) from BSO for \$207.22 a year, and Frank Buchert for \$11.18 a year.)**

"It's never going to go back to \$90, Rose. Even if the Volunteers take over, it's still going to be \$200 or more," Yanni prophesized. (But when rose Michailiuk tried to question that unbelievable prediction, she was immediately silenced by Mayor Parker.) Moreover, Yanni assured the audience "Every town in Broward County is over \$200 for fire assessment." **(Facts: Of a dozen Broward municipalities selected at random and contacted personally by phone, only one was over \$200. The AVERAGE of the twelve was \$130.82.)**

Commissioner Clark said simply and briefly he could support \$260 because "we have to pay for it one way or the other. **(Fact: He's right. But one way -- ad valorem taxes -- is clearly legal; the other -- special assessment -- many not be legal where EMS personnel and equipment are concerned.)**

Finally, the Mayor claimed to be a firm believer in "truth in budgeting", and cautioned that generally it was "not wise to fund from *ad valorem* taxes something like fire protection, which ought to be assessed by a special assessment because," he said, "it is the fairest system of allocating costs that actually benefit properties. It is generally not wise to hide the cost of the services being provided by putting it in *ad valorem*, which is what a lot of communities do." We are actually one of the lowest-cost providers of fire services," the mayor added, "its just that we happen to be honest, while other municipalities try to hide it in their *ad valorem*." The Mayor said he hoped they were not setting a precedent, and that next year they would "fairly assess" and not try to hide it in the *ad valorem*."

(Facts: There is no prohibition whatsoever against funding fire suppression from the ad valorem budget, which is what had been done in LBTS up until 2001. There IS a clear judicial prohibition against funding EMS personnel or equipment from a special assessment, which the evidence indicates, LBTS IS partially doing in the case of ALS Engine 36 and its crew. LBTS is not "hiding the cost of fire services in the ad valorem budget," but rather is hiding the cost of EMS in what appears to be an illegal special assessment, justified by a deceptive GSG study. Special assessments can indeed be fairly apportioned among the properties receiving services, but the flat-rate special assessment in LBTS, under which Rosa Michailiuk pays just as much as Mayor Parker, is NOT fair or equitable at all, but rather is an extremely regressive tax. An ad valorem tax would be less inequitable in many - but not all respects. But a special assessment based on the relative values of the properties enjoying fire protection -- information already available in the Property Assessor's data base -- would be more equitable than either of the other two options.)