# TOWN OF PALM BEACH

Office of The Town Clerk

## MINUTES OF THE SPECIAL TOWN COUNCIL MEETING HELD ON MARCH 12, 2007

I. CALL TO ORDER AND ROLL CALL

The Special Town Council Meeting was called to order on Monday, March 12, 2007, at 9:30 a.m., in the Town Council Chambers. On roll call, the following elected officials were found to be present:

Mayor Jack McDonald
President Richard M. Kleid
President Pro Tem Denis P. Coleman
Council Member William J. Brooks
Council Member Gail Coniglio
Council Member Susan Markin

Others present for all or a portion of the meeting were:

Town Manager Peter B. Elwell
Deputy Town Manager Thomas G. Bradford
Assistant Town Manager Sarah E. Hannah
Town Attorney John C. Randolph
William Amador, Assistant Fire-Rescue Chief
Jay Boodheshwar - Recreation Director
Paul Brazil - Public Works Director
Eric Brown - Public Works Assistant Director
Veronica Close - Director Planning, Zoning and Building
Charles Langley - Public Works Assistant Director
Gary Sallenbach - Support Services Major, Police
Jane Struder - Finance Director
Susan Eichhorn - Town Clerk



Post Office Box 2029 • 360 South County Road • Palm Beach, Florida 33480
Telephone (561) 838-5416 • Facsimile (561) 838-5417
E-mail: townclerk@townofpalmbeach.com • Website: www.townofpalmbeach.com

## II. INVOCATION AND PLEDGE OF ALLEGIANCE

Town Clerk Eichhorn gave the invocation. President Kleid led the Pledge of Allegiance.

## III. COMMENTS OF MAYOR JACK McDONALD

There were none.

## IV. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

President Pro Tem Coleman commented on the following two procedural suggestions:

1. Suggested removing consideration of landmarking Royal Poinciana Plaza from the Regular Town Council Meeting to be held on Tuesday, April 10, 2007 and place it on the Agenda of the Special Town Council Meeting to be held on Monday, April 9, 2007.

2. Priority should be given to residents when public comment was made.

President Kleid noted that it was the consensus of the Town Council to place the Public Hearing to consider the landmarking of Royal Poinciana Plaza on the Agenda for the Special Town Council Meeting to be held on Monday, April 9, 2007.

President Kleid explained that today's Town Council Meeting was the first of four full two-day Town Council Meetings. He noted that it was the intention of the Town Council that for the next four meetings, while discussion of the Traffic and Parking Study was underway, Town business would be divided between the Monday and Tuesday sessions of the Town Council.

## V. COMMUNICATIONS FROM CITIZENS- 3 MINUTE LIMIT PLEASE

There were none.

## VI. APPROVAL OF AGENDA

**MOVED** Item VIII.A., Presentations by Applicants for Appointment in the Architectural Commission and Landmarks Preservation Commission, to the first order of business.

**Motion made by Council Member Brooks, seconded by President Pro Tem Coleman, to approve the Agenda as amended. On roll call, the motion carried unanimously.**

VII. OLD BUSINESS

A. Town Hall Renovation and Related Town Facility Issues.
[Peter B. Elwell, Town Manager]

Town Manager Peter Elwell referred to his memorandum to the Mayor and Town Council dated March 6, 2007, and included in the backup material, to provide additional information and review the floor plan related to the proposed Town Hall renovations. He reviewed the recommendations made by staff and responded to questions from Town Council Members.

After further discussion, **President Pro Tem Coleman made a motion, seconded by Council Member Brooks, to adopt the Town Hall floor plan as the basis for future design, and authorized staff to proceed with Bridges, Marsh & Associates to complete the detailed design and preparation of bid documents. On roll call, the motion carried unanimously.**

Mr. Elwell referred to his memorandum to review the additional information staff had requested, at last month's Town Council Meeting, regarding options that were considered to be the most viable for relocation of the Human Resources (HR) Department and the Office of Information Systems (IS). He summarized the following options:

Option 1: Relocate to Airport Centre Park Office Condominium (West Palm Beach)
Option 2: Relocate to new building at existing Public Works facility (West Palm Beach)
Option 3: Relocate to new building at existing Town-owned property (701 Dixie Highway - West Palm Beach)

Mr. Elwell advised that staff no longer recommended Option 1: Relocate to Airport Centre Park Office Condominium (West Palm Beach). The primary reason was that providing reliable emergency power, at that location, would be difficult.

Mr. Elwell stated that if the Town Council chose Option 3: Relocate to new building at existing Town-owned property (701 Dixie Highway - West Palm Beach), the building presently, at this site, the old Police garage, would be demolished and a 3,600' building would be constructed to accommodate HR and IS. He noted, for the record, that the zoning requirements of the City of West Palm Beach required the building be a minimum of 3,600'.

Mr. Elwell responded to questions from Town Council Members.

After further discussion regarding the options presented, **Council Member Brooks made a motion to approve Option 3: Relocate to a new building at the existing Town-owned property, the old Police Garage, 701 Dixie Highway, West Palm Beach; and directed staff to begin the permitting process with the City of West Palm Beach. The motion was seconded President Pro Tem Coleman.**

In response to President Kleid, Council Member Brooks advised that as of 2005, the old Police Department garage was appraised, not at fair market value, for $2,250,000.

**On roll call, the motion carried 3/2 with Council Member Brooks, President Pro Tem Coleman, and Council Member Markin casting affirmative votes; Council Member Coniglio and President Kleid casting dissenting votes.**

VIII. NEW BUSINESS

A. Presentations by Applicants for Appointment to the Architectural Commission and Landmarks Preservation Commission.

The following applicants made a presentation to the Town Council for appointment to the Architectural Commission:

Sam Boykin
Marvin Rosenberg
William Feldkamp
Sara Simovich
Ann Lilja Vanneck

The following applicants were not present at the meeting:

Mark Bennett*
Jack W. Denholtz
Catherine M. Duemler
Kenn Karakul*
Morgan Dix Wheelock

**(After the lunch break Town Manager Elwell announced, for the record, that Mark Bennett and Kenn Karakul, currently alternate members of the ARCOM Commission, were present at today's meeting, arriving after the presentations were made, and had since left.)*

The following applicants made a presentation to the Town Council for appointment to the Landmarks Preservation Commission:

D. Imogene Willis
Dudley L. Moore, Jr.
Charles S. Roberts
Wallace Rogers
Hazel Rubin

The following applicants were not present at the meeting:

Maria L. Bacinich
Robert T. Eigelberger
Nell Height
Eugene Pandula (Non-resident expert member)

B. Traffic and Parking Improvement Plan: Strategies for Royal Poinciana Way Area, Including the "One-Way Pair" of Sunrise Avenue and Sunset Avenue. [Thomas G. Bradford, Deputy Town Manager]

Deputy Town Manager Thomas G. Bradford referred to his memorandum to the Mayor and Town Council dated March 2, 2007, and included in the backup material, to discuss traffic and parking issues and identification of preferred strategies for the Royal Poinciana Way commercial area. He reviewed the following three items, which staff was requesting direction from the Town Council:

1. Implementation of Placard Permit Parking Program for those parking spaces along the south side of Bradley Park.
2. Town Council direction on the different strategies identified in the Traffic and Parking Improvement Plan.
3. Staff was requesting the allocation of $17,555 from the General Fund Contingency to analyze the traffic counts and turning movement data associated with the one-way street evaluation for Sunrise and Sunset.

Discussion ensued and Mr. Bradford responded to questions from Town Council Members relative to the implementation of a Placard Permit Parking Program on the south side of Bradley Park, and the costs related to same.

Town Manager Elwell clarified that the hours of parking would always remain posted for "two hour parking" for those without a permit. The permit holders would be able to park for an unlimited amount of time.

Leslie Evans, 135 Seminole Avenue, noted that the area under discussion had, historically, been used for employees on Royal Poinciana; and for the last twenty or twenty-five years, parking enforcement had not ticketed employees in that area. He stated that there were precedents, in some areas of Town, for parking enforcement personnel not to ticket employees even when they had parked all day in permit parking only areas. He noted that if employees had to pay for parking, it would place a burden on them, and the Town Council should consider that issue.

Amy Shaughnessy, 226 Australian, President of the Royal Poinciana Way Association, asked if the placards were purchased by employers for their employees, could they be used by any employee or would the placard be tied to a specific vehicle or person?

Mr. Bradford responded that he was not certain how the placards would be assigned.

Mr. Neil McGuiness, 300 South Ocean Boulevard, requested that he and Mr. McLendon be allowed to review, and at the appropriate time, comment on the parking plan for the development of Brazilian Avenue.

President Kleid responded that when this item, at a future date, came before the Town Council, they would be invited to speak.

**Motion made by President Pro Tem Coleman to approve the implementation of Placard Permit Parking for those parking spaces along the south side of Bradley Park. The placard should be transferable to it may be used by more than one car. The motion was seconded by Council Member Markin. On roll call, the motion carried unanimously.**

Mr. Bradford discussed and responded to questions from the Town Council and staff on the following Traffic and Parking Improvement Plan's proposed strategies for the Royal Poinciana Way:

a) <u>Crash Data Audit</u>

Reviewed the recommendations of the report requesting that the Town Council direct staff to obtain the cost estimate for providing physical site enhancements at the intersection of Royal Poinciana Way and County Road, and the intersection of Royal Poinciana Way at Cocoanut Row/Bradley Place.

The cost estimate could be reviewed during the budgetary process if the costs reached on this project allowed for it to be placed into the Capital Improvement Program.

**Motion made by President Pro Tem Coleman, seconded by Council Member Brooks, directing staff to obtain the cost estimate for providing physical site enhancements at the intersection of Royal Poinciana Way and County Road, and the intersection of Royal Poinciana Way at Cocoanut Row/Bradley Place. On roll call, the motion carried unanimously**

b) <u>Royal Poinciana Way Commercial Area</u>

- <u>Consider Valet Parking</u>

Staff recommended that the RFP concept and document, which staff was preparing for presentation to the Town Council on May 7, 2007, include Worth Avenue, Royal Poinciana Way Commercial Area, South County Road and the Town Docks.

The proposed plan was for the Town to charge a fee to the valet provider for the usage, on a year round basis, of the spaces designated by the Town for the drop off and pickup areas. The valet provider would keep the fee they charged to the user of the service. It would be the responsibility of the valet provider to find off-street spaces to park the cars.

Leslie Evans, 135 Seminole Avenue, commented on valet parking on Royal Poinciana Way.

In response to Mr. Evans, President Kleid advised that the Town did publicize Town meetings and the items to be discussed at those meetings.

**Motion made by President Pro Tem Coleman to approve the concept and implement the study for valet parking on Royal Poinciana Way Commercial Area. The motion was seconded by Council Member Brooks. On roll call, the motion carried unanimously.**

- Consider Off-site Shuttle from the Royal Poinciana Plaza to the Other Areas in the Commercial District

No action was taken by the Town Council.

- Create a Public/Private Partnership to Build a Parking Garage Behind Green's Pharmacy

Mr. Evans stated that after reading through the report, he believed two items were missed relative to a public/private partnership. He suggested that there were several lots behind Publix the Town should consider as well as underneath Bradley Park or the median.

After further discussion, no action was taken by the Town Council.

- Create Parking Improvements to the Lot and Vacant Lot Due East of Publix

Staff believed that this option had merit, and if the Town Council concurred, staff would contact the property owner to encourage development of an at grade parking facility on that lot. This option would provide a gain of 33 parking spaces.

Staff recommended that the parking facility be operated by a private entity.

Staff would provide a report to the Town Council at the June 11, 2007, Special Town Council Meeting.

Mr. Evans commented on two additional lots in that area; financing and possible incentives for property owners to use their property for parking; and the use of parking garages for employees and valets.

**Motion made by President Pro Tem Coleman, seconded by Council Member Brooks, authorizing staff to contact the property owner of the lots due east of Publix to determine if that property could be developed as an off-street parking resource to be operated privately. On roll call, the motion carried unanimously.**

c) **One-Way Street Evaluation for Sunrise and Sunset Avenues - (Sunrise West and Sunset East)**

Mr. Bradford reviewed the One-Way Street Evaluation and responded to questions from Members of the Town Council.

President Pro Tem Coleman asked whether it was possible to turn those streets into one-way streets, just paint some diagonal lines and do a dry run. The next year, if it worked, the streets could be beautified.

In response to President Pro Tem Coleman, Town Consultant Brian Mirson, American Consulting Engineers of Florida (ACE), advised that it could be done. He advised that ACE recommended converting the streets to one-way to improve the situation. The recommendation made to staff by ACE, and his recommendation to the Town Council, was to allow ACE to provide the Town Council with a lump sum dollar amount for an analysis, in terms of the final design; put the stripping in, get the signal work done, and get it turned around. He stated that ACE was putting the numbers together this week and would come back before the Town Council at the next Town Council Meeting to provide the fee for both design and construction, re-striping. Implementation of the one-way streets could be accomplished within a sixty-day window, right after season. The goal was to get this done by next season, which would fit into their capital constraints.

Discussion ensued relative to Palm Tran operating on the one-way streets. Mr. Mirson advised that one-way streets provided more room than a two-way street and more flexibility relative to the turning radius.

Leslie Evans, 135 Seminole Avenue, concurred with President Pro Tem Coleman's suggestion that the Town implement one-way parking. He recommended that the Town implement this change right after the season rather than spend the $17,555 for a study. If it did not work, the streets could be changed back to two-way streets.

Mr. Mirson stated that was the recommendation of ACE. The Town should not spend the $17,555, at present.

In response to Council Member Markin, Mr. Mirson advised that consideration was being given to valet parking relative to one-way streets.

James Weiner, 150 Bradley Place, advised that he would like to learn more about the additional 35 parking spaces as well as more on angled parking relative to safety concerns.

Mr. Bradford advised that angled parking was a safe alternative used all across the country and also served as a traffic calming measure.

Mr. Mirson explained that there was the perception that parallel parking was a safe situation, but in fact, people had a very difficult time parallel parking, and it was no longer a requirement to receive a drivers license. Diagonal parking might appear unsafe, but lower speeds took place along a street with diagonal parking. He advised that it was a viable alternative to maximize the right of way the Town owns.

Mayor McDonald advised that one of the issues discussed when considering changing Seminole Avenue into a one-way street was relocating Palm Tran to Sunrise Avenue if it was made one-way. He asked if ACE had looked at having a bus stop on Sunrise Avenue.

Mr. Mirson responded that ACE had not looked at bus stops, and it was something that needed to be looked at. He advised that a bus stop would take about four to five spaces.

Council Member Markin expressed concern that when using diagonal parking and cars were backing out, traffic would be held up, which was not the case with parallel parking. The flow of traffic kept moving when parallel parking was used. She noted that it could take a while to get past the Publix area, on either side, if people were diagonally parked.

Mr. Mirson explained that was the reason ACE was suggesting, in this phase, not to put in diagonal parking, but what they would do first was reverse the striping, work on the circulation plan, and deal with the angles as a separate issue.

Discussion ensued regarding diagonal parking on Sunrise and Sunset.

President Pro Tem Coleman discussed diagonal parking on the south side of Royal Poinciana, on both sides. He noted that it would relieve some of the concerns about valet parking, but it might take away a traffic lane. He advised that he did not know what the trade offs were. He requested that Mr. Mirson investigate diagonal parking on both sides of Royal Poinciana Way, even if it did not go from corner to corner. He noted that was a question separate and apart from what Florida Department of Transportation (FDOT) would want. If the Town wanted it, they could pursue it with FDOT.

President Kleid recommended that Mr. Mirson return next month with an answer to that specific question.

Joanne Warshaver, 223 Seminole Avenue, commented that she did not want the Town to lose sight of the goal of the residents of Seminole Avenue, which was to remove the busses from residential streets. She noted that this issue started with the Seminole bus situation.

President Kleid responded that the Town Council had not lost sight of this because they had asked the question if the street(s) were made one-way, would it be possible to get Palm Tran to reroute off Seminole Avenue.

In response to Ms. Warshaver, Mr. Elwell advised that Palm Tran had been asked that question, but the Town had not as yet received an answer.

After further discussion, President Kleid advised that at the next meeting, the Town Council would receive a report with respect to President Pro Tem Coleman's question regarding diagonal parking on both sides of the south side of Royal Poinciana.

Nick Abiusi, Store Manager of Publix Supermarket, 265 Sunrise Avenue, commented on the conversion of Sunrise and Sunset Avenues to one-way streets. He expressed concern over tractor trailers being able to get in and out of Publix and asked if that had been addressed.

Mr. Mirson responded that this had been addressed, and if the streets were converted to one-way, there would not be any plan implemented without sitting down directly with Publix to ensure that trucks could get in and out.

**Motion made by Council Member Brooks to approve the conversion of Sunrise Avenue (west) and Sunset Avenue (east) to one-way streets, by the end of May/first of June; and a report would be provided to the Town Council at the Monday, April 9, 2007, Special Town Council Meeting, of the cost estimates for the design and implementation of the first phase only. The motion was seconded by President Pro Tem Coleman. On roll call, the motion carried unanimously.**

Mr. Bradford discussed the issue of Publix relative to the reconfiguration of the lot at the northeast corner of their property to facilitate delivery truck circulation. He advised that staff had no objections and encouraged Publix to apply for the appropriate zoning application so that a formal review of their proposal could be undertaken by the Town's development staff and formally considered by the Town Council.

Mr. Bradford reviewed the item that dealt with Seminole Avenue noting that the neighborhood was not in the study area but was affected by it. The residents had requested that traffic calming be considered for that area to slow down and discourage traffic from traveling up and down their street. He explained that it would be precedent setting as there most likely were many neighborhoods in Town that would desire traffic calming initiatives. The cost was likely to be high, and he advised that there were alternative means of financing these types of capital improvements in the Code of Ordinances. The Town Council's decision regarding this matter could be important relative to the future.

President Pro Tem Coleman advised that he did not see any reason to discuss how to do something until the Town Council decided that it was desirable to do so.

President Kleid stated that this discussion regarding Seminole Avenue might be premature, because the problem might be solved if the busses could be moved off of Seminole.

Mr. Elwell advised that Ms. Hannah had spoken again this morning with Palm Tran, and they had not finished looking at this. Palm Tran had indicated to Ms. Hannah a willingness to work with the Town as well as an expectation that they could remove the busses from Seminole and use the one-way streets as part of their solution.

Joanne Warshaver advised that Seminole Avenue was used as a thoroughfare with cars speeding down the street, not just the busses.

William Diamond, 220 Wells Road, commented that Wells Road was also used as a speedway especially early in the morning, around 7:30 a.m.. He requested adding Wells Road to the study area for possible traffic calming.

C. Proposed Cell on Light Truck (COLT) to Improve North End Cellular Telephone Service.
[Thomas G. Bradford, Deputy Town Manager]

Deputy Town Manager Thomas G. Bradford referred to his memorandum to the Mayor and Town Council dated March 5, 2007, and included in the backup material, to discuss the request to temporarily use the North Fire Station for a wireless telecommunications site, which would benefit Cingular. He explained that the use of the North Fire Station, as a temporary site, was no longer viable, because it required approval from the State Historic Preservation Office in Tallahassee which could take three to four months to obtain. He advised that due to that requirement, Cingular was requesting that, on a temporary basis, the placement of a Cell on Light Truck (COLT) alongside the North Fire Station to improve north end cellular service. He explained that the COLT would be removed once The Breakers site was operational.

Mr. Bradford responded to questions from the Town Council as follows:

- The COLT would be temporarily located on the side of the North Fire Station between five and nine months.
- The area of service that would be enhanced was mid-Town up to and including the Palm Beach Country Club.
- The COLT would not generate any noise as long as they hook up to electric at that site.

William Diamond, 220 Wells Road, suggested that the residents be notified of the temporary placement of the COLT as well as the duration of time it would be located there. He noted that this went to the heart of informing residents as to actions that would be taken that directly impacted them.

Town Manager Elwell stated, for the record, that staff had attempted to find a less visible location for the COLT. The alternatives would not have sufficiently strengthened the signal to make it worthwhile.

Mr. Diamond suggested the use of the North Fire Station's parking lot to take the COLT off the street.

President Kleid advised that he had asked that question when he was at the North Fire Station, and had been informed that during the week the parking lot was full.

In response to Council Member Coniglio, Mr. Bradford advised that this particular proposal did not necessarily improve service directly in the area of the schools. He noted that Cingular believed their service in that area was okay, that it could be better, but it was functioning quite fine. He discussed some alternatives that could be pursued to enhance service in the area of the schools.

In response to President Pro Tem Coleman, Town Manager Elwell advised that the Town was in the process of reviewing the Zoning Code regarding cellular service in order to amend it. He proceeded to review the history of cell service in the Town.

Orator Woodward, 251 El Bravo Way, commented that he shared the Town's concern that the problem of cell service in the area of the schools had not been resolved.

Mr. Woodward advised that he had been in direct contact with T-Mobile, and discussed a note sent to Mr. Bradford from T-Mobile, in which they proposed four new sites in the Town of Palm Beach, and they were ready to move ahead on. He explained that T-Mobile requested the Town locate and provide approvals for those sites. He reviewed the following concerns expressed by T-Mobile:

- The Town did not have the density to make this a good economic situation.
- The Town charged service providers $25,000 for them to provide service.

Mr. Woodward urged the Town Council to pass a resolution today waiving the $25,000 fee, and directing Mr. Bradford to inform T-Mobile that the Town was ready to move ahead; there would be no fee; inform them of the sites.

Town Manager Elwell explained that the $25,000 issue was moot because of actions taken recently, and contemplated for the future, by the Town Council to open up the zoning to allow the use of private property for tower facilities.

Mr. Bradford advised that he had e-mailed T-Mobile providing the information they had requested in their e-mail, and that he informed them that the Town would be willing to negotiate with them, but they had to advise the Town where T-Mobile wanted the sites to be. He stated that they had not responded to the Town with site locations.

President Kleid suggested Mr. Orator use his influence, if he had direct contact with T-Mobile, and find out why they were not responding to the Town.

Jimmy Zisson, 1600 North Ocean Boulevard, commented as follows:

- It was unbelievable to him that this issue had been ongoing for three years and there had not been more progress.
- It was not a big cost issue but a focus issue.
- The placement of the COLT on the north end was good option, but the risk was on Seaview Avenue and around Recreation Center.
- Suggested that the Town obtain building repeaters and hardware that would take a minium signal out of the air for all cell services and propagate that signal in order to have more reliable coverage than what was currently available, while the Town continued to negotiate with the other providers. The technology was such that within a week, the hardware could be mounted on the Recreation Center, on Palm Beach Day School, and on Palm Beach Elementary.
- Noted that he was not talking about the convenience of cell phone usage, but the need to be able to reach 911 or any of the emergency services.
- Public Safety as well as financial responsibility for the Town was first second and third for the Town Council.

President Pro Tem Coleman suggested residents switch their service, if the Town could get Cingular to respond to the Town, and the other cell providers did not. The more people who switch would encourage Cingular to improve the quality of the service.

President Kleid advised that he did take some umbrage in the comment that the Town had not been doing everything possible. He stated that it had been a priority of this Town Council to obtain better service for the Town, and they clearly recognized the safety issues, and Mr.

Bradford had made it a major priority. It was not always within the Town Council's ability to achieve some of these efforts.

**Motion made by Council Member Markin to authorize the temporary placement of the Cell on Light Truck (COLT), along the side of the North Fire Station, subject to review of future agreements by the Town Attorney. The motion was seconded by Council Member Brooks. On roll call, the motion carried unanimously.**

Council Member Markin suggested that staff send letters to residents of Wells Road to provide information relative to the COLT.

President Kleid agreed with Ms. Markin and directed staff to send the letters out.

D. Annual Strategic Plan Review and Update.
[Sarah E. Hannah, Assistant Town Manager]

Assistant Town Manager Sarah Hannah referred to her memorandum to the Mayor and Town Council dated March 5, 2007, and included in the backup material, to review the proposed changes to the Strategic Plan.

Discussion ensued regarding the following two items:

- A1(c).Strategic Planning

  Town Manager Elwell noted that the record should reflect that the schedule had changed for the Evaluation and Report (EAR), and the Town would be completing the EAR two years later than originally scheduled.

- H2. Commercial Development Limits

  In response to Council Member Markin, Director of Planning, Zoning and Building Veronica Close stated that one of the ways to control inappropriate or extremely redundant commercial development was to limit the permitted uses within certain districts and within certain categories.

President Kleid requested that Ms. Close place this issue on the list of study items.

At this time, President Kleid noted that it was the consensus of the Town Council to adopt the entire report.

**Motion made by President Pro Tem Coleman, seconded by Council Member Markin, to direct staff to provide to the Town Council a Resolution to accomplish the recommended changes. On roll call, the motion carried unanimously.**

E. Staff Report and Planning and Zoning Commission's Record and Report Regarding Generators.
[Veronica B. Close, Director of Planning, Zoning, and Building]
**TIME CERTAIN 1:30 P.M.**

Zoning Administrator Paul Castro provided a brief history of Ordinance No. 5-07, and reviewed the 2006-2007 Zoning Season Staff Report and the Planning and Zoning Commission's Record and Report regarding generators, all of which were included in the backup.

Mr. Castro reviewed the following recommendations made by staff and responded to questions from Town Council Members.

1. Approval of the Zoning Season Staff Report for Generators, as modified by the Planning and Zoning Commission in the Planning and Zoning Commission's Record and Report.
2. The Town Council modify Zoning in Progress to reflect the proposed changes.

In response to President Pro Tem Coleman, Jeff Taylor, Planning, Zoning and Building Combination Inspector, noted that a 60 KW or a 100 KW generator was basically the size of the output. He explained that a kilowatt was the current, the amperage, and the voltage. The larger the house the more amps it would draw.

Discussion ensued regarding the size of a generator relative to the square footage of a building.

In response to President Pro Tem Coleman, Mr. Castro advised that he had contacted Florida Power & Light (FPL) professionals to ask about their program relative to generators: how the program might impact the Town regarding brownouts and the automatic turn on of generators. He noted that he was informed there would be no impact.

Mr. Taylor stated that he was not aware of any FPL program that turned the power off to a house, but he was aware of a program that turned off just the nonessentials, such as a resident's pool pump, air-conditioner, etc.

Rod Macon, Regional Director of external affairs at Florida Power & Light, clarified that the program FPL was concerned about with respect to this particular change in the Code had nothing to do with residential service. The program was for commercial customers only.

In response to President Pro Tem Coleman, Mr. Macon advised that the common area service to a condominium might be on a commercial rate, but individual units within a condominium would clearly be on residential rates.

Mr. Macon stated that for about twenty-five years, FPL had a very good energy management program, which included the following:

- Energy conservation programs designed to reduce consumption by customers, making their homes or businesses more efficient;
- Load control programs designed to reduce peak demand by customers.

Mr. Macon noted that over the course of twenty-five years, and as a result of the hundreds of thousands of customers who participated in these programs, FPL had been able to avoid the construction of 10 power plants. He advised that there was only one program that caused FPL concern with respect to the Town's proposed changes, and that was a program designed for commercial customers, and only commercial customers who agreed to reduce their demand by at least 200 KW during emergency or system issues. The commercial customer could save money as a result of contracting with FPL, and FPL avoided building additional power plants, which ultimately helped all customers save money. It was good for the environment as well, and it was good policy. It had nothing to do with FPL's residential program, which was a different program all together.

President Pro Tem Coleman discussed the definition of commercial versus residential.

Ernie Plasencia, Florida Power & Light Program Manager, explained that a customer would be billed as a commercial account if the common area had more than 200 KW of demand.

Town Manager Elwell advised that Attorney Lynch, who had represented Palm Beach Towers, regarding their generator, was present today and had indicated to him and Town Attorney Randolph that there was only one meter that serviced all of Palm Beach Towers.

Attorney Lynch advised, for the record, that there was one meter for that building, whereas in a residential building, there would be meters for each unit. The arrangement Palm Beach Towers had made with FPL was to participate in the brownout program for the entire building and to allow FPL to cut off that one meter.

President Pro Tem Coleman commented that within the definition of this program, a 400-unit condo development could be redefined as commercial property.

Mr. Plasencia explained that if the service provided was for one meter, and the property was not billed at the residential rate, they would obviously be billed at a commercial rate and that was how they would be classified.

Mr. Macon advised that it appeared that what they were dealing with at Palm Beach Towers was what FPL referred to as a master metered building and that was somewhat unusual with respect to condominiums. He noted that most condominiums had individual meters for each residence and a separate meter for the common areas. It did sound like this was a different situation, and as a result of their metering, they qualified as a commercial customer.

In response to President Pro Tem Coleman, Mr. Macon advised that he understood exactly what Mr. Coleman was saying and reiterated that master metered condominiums were not typical, but were rare. He advised that Palm Beach Towers might qualify, under the strict definition of this program, but it was not the intention of the program to reach out to residential customers. There were other programs available for them.

President Pro Tem Coleman advised that Palm Beach Towers Condominium was what triggered this proposed Ordinance.

Mr. Macon stated that FPL supported the Town Council on noise issues, setback issues, visual issues, etc., but hoped the Town would not interfere with FPL's ability to implement good energy policy. He advised that over a ten-year period, they had only implemented the use of this program on eleven occasions, and those periods were typically for one to two hours.

Mayor McDonald advised that Palm Beach Towers started out as a hotel and was a commercial building. He explained that when it was converted from a hotel to a condominium building, they did not individually meter the units and that was why it was now a commercial account.

In response to Mayor McDonald, Mr. Macon advised that he did not know how many accounts there were in Town that would qualify for the FPL program, but it had to be a fairly small number. He stated that he had heard that Town Hall and the Fire Station might qualify.

Town Manager Elwell commented that the Town was not currently participating, but staff would investigate as to whether or not the Town might qualify.

President Pro Tem Coleman asked if the Town was in a position to have their emergency services cutback to benefit the distribution system?

Mr. Macon responded that the program was ideal for customers with generators, as the program was designed to be coupled with the use of an emergency generator.

Council Member Markin requested a copy of the list of Palm Beach customers that FPL currently considered to be commercially rated customers who participated in this program and customers who could conceivably qualify.

Discussion ensued regarding the following issues and concerns of Town Council Members:

- Testing of generators.
- The Ordinance relative to the reference of swimming pool equipment.
- Whether the Ordinance should require that 100 KW generators be enclosed.
- Decibel levels of equipment such as generators and water cooled air-conditioning systems when placed in the same location.
    - Testing decibel levels prior to installation of equipment.
    - Muffling equipment after installation.

After discussion, President Kleid stated that it was the consensus of the Town Council to have language placed in the Ordinance regarding combined noise levels and that the reference to swimming pool equipment be corrected.

Yvelyne D. Marix, 1570 North Ocean Boulevard, questioned whether generators were allowed to be placed on a roof; and if so, did the property owner of the home on Hi-Mount have a permit to place their generator on the roof?

Mr. Castro responded that, until several of months ago, he was not aware of any generators that had been placed on a roof. It was brought to his attention that the Town did not have anything, specifically, in the Code that allowed for generators on roofs, but as long as it met the intent of height exceptions in the Code for each zoning district, it was allowed. The Town allowed air-conditioning equipment on a roof, provided it was screened from the street and was not more than four feet in height above the roof.

Mr. Castro noted that the generator under discussion could be seen from the street and Tim Frank, Planning Administrator, had been working with the owner and their representatives to try to screen the generator. The Town had attempted to be as flexible as possible in allowing residents to place generators on their roofs, provided it met the intent and the spirit of the Code.

Discussion ensued regarding the following:

- Granting of waivers through administrative decision or Town Council determination.
- Placement of the generator on the roof of home on Hi-Mount Road.

After further discussion, Mr. Castro advised that the Town did allow generators to be placed on roofs. He noted that the generator at the home on Hi-Mount Road was permitted and approved by the Planning Administrator; however, he advised that he had not been involved in that process.

President Kleid noted that much more information was needed and requested that staff return to the Town Council with a report on this matter.

Discussion ensued and President Kleid passed the gavel to make a **motion to amend Ordinance No. 5-07 as follows:**

- **Section 1 - Paragraph (c) - Provide for the administration to determine whether a waiver, in that specific situation, would be adopted, and that the decision could be appealed to the Town Council.**
- **Section 1(b)3. - Sentence to include: "the generator shall be housed in an enclosed building with landscaping as approved by the appropriate**

**Commission, Architectural Commission or the Landmarks Preservation Commission."**

- **Section 1(b)4. - Sentence to begin: "If the generator output capacity was greater than 60KW but less than 100KW, a wing wall would be allowed."**

In response to Council Member Markin, President Kleid clarified that a generator greater than 100KW would have to be housed.

**The motion was seconded by Council Member Markin. On roll call, the motion carried unanimously.**

IX. ANY OTHER MATTERS

There were none.

X. ADJOURNMENT

There being no further business, the special Town Council Meeting of March 12, 2007, was adjourned at 2:40 P.M.

APPROVED:

Richard M. Kleid
Town Council President

ATTEST:

Susan A. Eichhorn
Town Clerk