TOWN OF PALM BEACH

Office of The Town Clerk

MINUTES OF THE TOWN COUNCIL MEETING
HELD ON TUESDAY, FEBRUARY 15, 2011

I. CALL TO ORDER AND ROLL CALL

The regular Town Council meeting was called to order on Tuesday, February 15, 2011, at 1:00 p.m. in the Town Council Chambers. On roll call, all of the elected officials were found to be present with the exception of Mayor Jack McDonald, who was unable to attend the meeting.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Administrative Assistant Anne Boyles gave the invocation. President Rosow led the Pledge of Allegiance.

III. SWEARING IN OF ELECTED OFFICIALS

Mayor Gail L. Coniglio was sworn in by Judge Kathleen Kroll.

Council Member William J. Diamond was sworn in by Judge Kathleen Kroll.

Council Member Michael J. Pucillo was sworn in by Judge Kathleen Kroll.

(Mayor Became the Presiding Officer)

IV. CALL TO ORDER AND ROLL CALL

The Town Council meeting was called to order on Tuesday, February 15, 2011. On roll call, all elected officials were found to be present.

V. ORGANIZATIONAL ITEMS

A. Election of the Town Council President

Mayor Coniglio announced that Council Member Rosow was unanimously re-elected as President for this term. The meeting was turned over to Council President Rosow.

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B. Election of the Town Council President Pro Tem

Council President Rosow announced that Council Member Wildrick was elected as Council President Pro Tem.

VI. PRESENTATIONS

A. Recognition of Joanna Golino, Landmarks Preservation Commission, From March 2009 Through July 2010.

Mayor Coniglio recognized Ms. Joanna Golino for her service on the Landmarks Preservation Commission from March 2009 through July 2010.

B. Recognition of Charles S. Roberts, Landmarks Preservation Commission, From March 2007 Through November 2010.

Mayor Coniglio recognized Mr. Charles S. Roberts for his service on the Landmarks Preservation Commission from March 2007 through November 2010.

VII. COMMENTS OF MAYOR GAIL L. CONIGLIO

Mayor Coniglio thanked the Council members for their dedicated service and welcomed Council Member Michael Pucillo. She stated she looked forward to a cohesive, responsible, problem solving team.

Mayor Coniglio thanked Mayor Jack McDonald for his ten years as a Council member and six years as Mayor. She stated that he worked tirelessly for the Town of Palm Beach, was instrumental in the formation of the original Shore Protection Board, and carried the leadership for the County in Home Rule, which allows each municipality to have governance over their own community.

Mayor Coniglio introduced Scott Austin, a junior at a local high school, who is interested in pursuing a career in politics.

VIII. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

Council Member Kleid asked the Council members to promise to be civil, gentle, and kind to each other and the residents they serve.

Council Member Kleid suggested that the Planning & Zoning Commission revisit the Royal Poinciana Way Overlay District, not including the Royal Poinciana Plaza. He spoke about the deterioration of the District.

Council Member Diamond spoke about articles and speeches made by some Council members suggesting that the Town of Palm Beach had reached the end of its budget cutting rope and must now entertain increases in the real property taxes. He disagreed saying that the Council had not laid off employees, reduced governmental salaries, or required any employees to be furloughed. He said the Town should look to reduce the size of its own government first before advocating the increase of taxes.

Council Member Pucillo clarified remarks attributed to him stating that he believed the Town had reached a point where he did not believe the level of service could continue without a tax increase or a substantial cut in the level of services. He said he would like to hear from the Town residents about the issue.

Mayor Coniglio reiterated Council Member Pucillo's statements. She stated that in her presentation to the Civic Association she had told the residents that she needed to hear from them before the first of June regarding what they would like to have happen in the budget process.

President Pro Tem Wildrick reported that the Town had essentially the same number of employees now as in 1991 and that forty plus positions had been eliminated through attrition. He suggested that to get the same amount of taxes maybe the millage rate should be raised. He said he hoped the Town could become more efficient and offer the same level of service.

Council President Rosow stated that two years ago the Council had set fourteen priorities and all but one had been accomplished, which was a great tribute to the Council. He explained that the only remaining priority was for the Finance and Taxation Committee to develop options to fund work at the beaches.

IX. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

(Another opportunity for communications from citizens will be offered immediately after the lunch break.)

Eric L. Gilbertson, 121 Chilean Avenue, congratulated the new Mayor and Town Council members.

Susanna Durst, 1333 N. Lake Way, spoke on behalf of the members and tennis players of Palm Beach in defense of Rose Carnicelli, Tennis Facility Supervisor.

Stephanie Bojokles, owner of Tropical Fruit Shop on Royal Poinciana Way, read an email she had sent in opposition to the proposed green market.

Deborah Robinson 217 Clarke Avenue, said that she did not want the police to lose their pensions nor have their salaries cut. She asked why only 18 cents of every dollar stays in the Town.

Burke Ross, 172 South Ocean Boulevard, spoke on behalf of the Ocean block residents of Clarke. He suggested that representatives of each affected block on Clarke and the Sea streets be appointed to a task force to meet with Town staff and try to come up with a solution before the next Town Council meeting. There was agreement from the Council members on the suggestion. Mayor Coniglio expressed concern that all residents were aware of the idea and agreed with it.

The following residents spoke about parking issues on Clarke Avenue and the Sea streets and the proposed task force:

Mike Strickland, 145 Seaspray;
Glenn Zeitz, 142 Seabreeze; and
Rob Reverly, 200 South Ocean Boulevard.

Council Member Kleid stated it was important that the task force have representation from the police department because of the enforcement issue. Council Member Pucillo suggested an option include the extension of County Road parking on the east side. He reported that there is currently parking from Royal Palm Way to Seaspray with one lane of traffic. He suggested it be extended to close to Barton to pick up spots on County Road within one-quarter mile of the beach.

Town Manager Peter Elwell stated that staff supports the direction that Council is headed. He expressed concern that if the task force is formally created it would be an official body of Town and would be subject to the Sunshine Law, meeting notices, etc. He said that if the Council wanted the meetings to be private so that the neighbors could speak to each other about the pros and cons of different aspects, he would suggest the Council assign staff to work with the people on those blocks. There was consensus from the Council on the suggestion. Council President Rosow stated that the parking on Clarke Avenue item would be removed from the agenda and brought back to the Council in March.

Anita Seltzer, 44 Cocoanut Row, reported that the Town Council agenda was not released to the public until 4:00 p.m. on the Thursday prior to meeting and the deadline for submitting material for the back-up agenda was 5:00 p.m. on that Thursday which restricted citizens from participating on an equal basis. Council President Rosow responded that he would speak to staff regarding how supplemental material is provided.

X. APPROVAL OF AGENDA

The following change was made to the agenda:

WITHDRAWN: Item XIV.B.6, Parking on Clarke Avenue.

Motion was made by Council Member Diamond and seconded by President Pro Tem Wildrick to approve the agenda as amended. On roll call, the motion carried unanimously.

XI. CONSENT AGENDA

1

A. MINUTES: JANUARY 11, 2011 APPROVAL OF THE MINUTES OF THE TOWN COUNCIL MEETING

2

B. MINUTES: JANUARY 12, 2011 APPROVAL OF THE MINUTES OF THE TOWN COUNCIL MEETING

3

C. APPROVAL OF MAJOR MATTERS CONSIDERED BY THE ARCHITECTURAL COMMISSION AT ITS MEETING ON JANUARY 26, 2011.

4

D. RESOLUTIONS

5

1. <u>RESOLUTION NO. 5-11</u> A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Three Year Enterprise License Agreement with ESRI in the Amount of $25,495 per Year Which Will Provide the Town with Unlimited License Use and Support of ESRI Enterprise Software and Authorizing the Town Manager to Execute this Purchase on Behalf of the Town. [Thomas G. Bradford, Deputy Town Manager]

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2. <u>RESOLUTION NO. 8-11</u> A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Providing for the Removal of a Historic or Specimen Tree from a Property Located Within the Town of Palm Beach; and Providing That a Copy of this Resolution Be Recorded in the Public Records of Palm Beach County, Florida.[H. Paul Brazil, Director of Public Works]

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3. <u>RESOLUTION NO. 10-11</u> A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Contractual Service Specialists Agreement Between the Town of Palm Beach and Kenneth A. Scheppke, M.D., P.A., as Medical Director and Authorizing the Town Manager to Execute the Same on Behalf of the Town. [Kirk W. Blouin, Police Chief]

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4. <u>RESOLUTION NO. 13-11</u> A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving Hy-Byrd Inc, as the Highest Ranked Firm and M.T. Causley Inc. as the Second Highest Firm Responding to RFP No. 2010-28 for Plan Review and Inspection Services Based upon Their Proposals and the Selection Committee's Recommendations Pertaining Thereto; Authorizing Staff Negotiations with Hy-Byrd Inc. and M.T. Causley Inc. and Other Firms Responding to the RFP in the Order of Their Ranking Should Negotiations Be Unsuccessful with Hy-Byrd Inc. And/or M.T. Causley Inc., and Authorizing the Town Manager to Execute a Negotiated Contract on Behalf of the Town for Plan Review and Inspection Services Subject to the Town's Adopted Budget for Said Program and the Town Attorney's Approval of the Negotiated Contract for Legal Form and Sufficiency.[John S. Page, Director of Planning, Zoning, and Building]

5. RESOLUTION NO. 14-11 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving an Agreement Between the Town of Palm Beach and the Palm Beach County Board of Commissioners for an Urban Area Security Initiative Grant in the Amount of $50,000; and Authorizing the Town Manager to Execute the Same on Behalf of the Town. [Jay Boodheshwar, Director of Recreation]

6. RESOLUTION NO. 15-11 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Pre-Construction Phase Contract to Burkhardt Construction, Inc., in the Amount of $49,950 and Establishing a Pre-Construction Phase Budget of $85,000 for (Construction Program Management) Construction Management at Risk Services for the D-15 (D-6 and D-7 Pump Station Improvements) and Authorizing the Town Manager to Enter into an Agreement Necessary to Complete this Phase of Said Improvements. [H. Paul Brazil, Director of Public Works]

7. RESOLUTION NO. 16-11 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Establishing a Not to Exceed Pre-Construction Phase Budget of $25,000 for the Force Main Projects Within the Accelerated Capital Improvement Program. [H. Paul Brazil, Director of Public Works]

8. RESOLUTION NO. 18-11 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Contract Increase to D. B. Ecological Services, Inc. for Sea Turtle Nesting Monitoring Associated with the 2010-2011 Dune Restoration Project in Reaches 7 and 8, Establishing a New Contract Amount of $141,48 from $133,480. [H. Paul Brazil, Director of Public Works]

E. OTHER

1. North Ocean Boulevard Seawall-Authorization for Repairs and Plans for Permitting. [H. Paul Brazil, Director of Public Works]

2. Approval of Modified Directional Boring Pipe Impacts at Bradley Park and Lake Trail. [H. Paul Brazil, Director of Public Works]

3. Worth Avenue Phase I Close-Out With Savings Overall and Change Order Approval for Architect Mark Marsh. [H. Paul Brazil, Director of Public Works]

4. Waiver of Construction Prohibition During Winter Months to Allow Pre-Construction Activities for Pendleton Avenue Project. [H. Paul Brazil, Director of Public Works]

5. Approval of Budget Calendar for Preparation and Approval of the FY12 Budget. [Jane Struder, Director of Finance]

6. Approval of Selection Committee Substitution for Force Main CM-at-Risk Contract. [H. Paul Brazil, Director of Public Works]

7. Approval of Centennial Related Requests from the Greater South County Road Association. [Jay Boodheshwar, Director of Recreation]

8. Approval of Publix Use of Right-of-Way During Winter Months for Utility Relocation and Other Pre-Construction Activities. [H. Paul Brazil, Director of Public Works]

Motion was made by Council Member Diamond and seconded by Council Member Kleid to approve the Consent Agenda. On roll call, the motion carried unanimously.

XII. BOARD/COMMISSION ANNUAL REPORT

A. Investment Advisory Commission. [Michael Andrews, Chair and Jane Struder, Director of Finance]

Michael Andrews, Chairman of the Investment Advisory Commission, reported that through diversification and prudent investing the earnings on the Town's surplus were over $2 million, which was more than the projected interest of $1,540,000. He credited Town Manager Elwell and his staff for the savings. He spoke about the cash portfolio managed by PFM Asset Management and the Florida League of Cities saying it did very well this last fiscal year and exceeded the benchmark. Mr. Andrews reported that Town's health insurance (OPEB) Trust, managed by Prime Buchholz, had been down about 30% the previous fiscal year but was up 12.2% this year. He addressed the challenges for the next year: the Town would be using some of the bond revenue monies so there would be less of a base to make interest upon and the market's investment curve had come down considerably and there would be more pressure on the Town's investment companies to acquire higher yields.

Town Manager Elwell clarified that the $.5 million surplus that Dr. Andrews referred to was included in the report that was given to the Council each month, which also included the funds that came in higher and those that came in lower than anticipated.

Dr. Andrews replied to questions from the Council regarding municipal bonds, the use of a bond fund versus investing directly in bonds, increasing the short term investments, and the use of the firm Prime Buchholz.

Motion was made by Council Member Kleid and seconded by Council Member Pucillo to accept the Investment Advisory Commission report. On roll call, the motion carried unanimously.

XIII. COMMITTEE REPORTS

A. Water Committee Meeting of January 12, 2011. [David A. Rosow, Town Council President]

Laura Corry, Lead Intergovernmental Representative for the South Florida Water Management District, gave a power point presentation on the proactive measures needed to protect water resources. A copy of the presentation was submitted for the record. She reported that this year there was a dryer than normal dry season and now was the time to call for water conservation measures. She responded to questions from the Council regarding the storage of water, the draining of Lake Okeechobee, and SMART irrigation systems.

Council President Rosow presented the report of the Water Committee. Council Member Diamond expressed opposition to mandating residents to replace all irrigation systems with SMART irrigation within five years. Mayor Coniglio proposed the Town set its own regulations regarding irrigation systems prior to the State mandate. President Pro Tem Wildrick expressed concern with the amount of water pumped into the Intracoastal and the need to store water.

Motion was made by Council Member Kleid and seconded by Council Member Pucillo to accept the Water Committee meeting report of January 12, 2011. On roll call, the motion carried unanimously.

B. Ordinances, Rules, and Standards Committee Meeting of January 25, 2011. [William J. Diamond, Town Council Member]

Council Member Diamond presented the Ordinances, Rules, and Standards Committee meeting report.

Motion was made by Council Member Kleid and seconded by Council Member Pucillo to accept the Ordinances, Rules, and Standards Committee meeting report of January 25, 2011. On roll call, the motion carried unanimously.

C. Public Works Committee Meeting of February 1, 2011. [Gail L. Coniglio, Mayor]

Mayor Coniglio submitted the report of the Public Works Committee stating that the meeting dealt with the proposed franchise agreement between the Town and Florida Power and Light (FPL). Council Member Kleid noted that all the points that were requested of FPL were granted with the exception of a buyout provision.

Clerk's Note: The next item discussed was XV.b.1, Ordinance No. 7-11.

Motion was made by Council Member Pucillo and seconded by Council Member Diamond to accept the Public Works Committee meeting report of February 1, 2011. On roll call, the motion carried unanimously.

XIV. REGULAR AGENDA

A. Old Business

1. Update Regarding Proposed Restaurant on Peanut Island. [Gail L. Coniglio, Mayor]

Mayor Coniglio reported on the February meeting held by Palm Beach County Commissioner Karen Marcus. She stated that the deadline for the Maritime Museum to present a formal application was April 1. She shared concerns from the committee including infrastructure upgrades to water, grease trap, and sewage, parking, noise, increased boat usage, litter, and lighting. She reported that the proposal was for a 150-seat restaurant and bar.

Following a brief discussion, there was consensus for the Mayor, at the next meeting of the committee, to take a formal position in opposition to the proposed restaurant.

2. Recommendation to Demolish the Casa Bendita Gazebo. [H. Paul Brazil, Director of Public Works]

Paul Brazil, Director of Public Works, reported that the Casa Bendita gazebo had fallen into a state of disrepair and would cost approximately $146,000 to rebuild. He further reported that Landmarks had not deemed the structure worthy of being landmarked and the Preservation Foundation had spoken with residents about rebuilding it. He stated that staff recommends the structure be demolished with a budget not to exceed $25,000 from the General Fund contingency. In response to questions from the Council, Mr. Brazil explained that the cost to demolish would probably be $10,000-$15,000. He stated that the residents had asked for curbing, landscaping, and irrigation, but staff was suggesting a temporary restoration with nothing more than gravel. He explained that an adjacent resident may approach the Council regarding a partnership for a landscape plan.

Edward Cooney, 495 North Lake Way, expressed his disappointment that the Town had let the gazebo deteriorate to its current state.

Motion was made by Council Member Diamond and seconded by Council Member Kleid to approve the demolition of the Casa Bendita gazebo in an amount not to exceed $25,000 from the General Fund Contingency. On roll call, the motion carried unanimously.

B. New Business

1. County Budget Task Force Items. [Thomas G. Bradford, Deputy Town Manager]

Thomas Bradford, Deputy Town Manager and staff liaison to the County Budget Task Force, reviewed the four requests of the Town Council by the Task Force.

Council President Rosow stated he would provide the name of a candidate for the Task Force. He announced that Mayor Coniglio would be the new chair of the Task Force.

At the request of Mayor Coniglio, Mr. Bradford reviewed the initial assignment of the Task Force and stated that the Task Force had chosen to focus on the County's general operations including the Sheriff and Fire-Rescue Departments. He stated that when the Task Force was first created they were too far along in the county budget to have any effect for the current fiscal year, but he did believe there was an opportunity to affect the FY2012 budget.

Jeri Zenko, 232 Tangier, spoke about the work of each member and asked that when appointing someone to the Task Force to consider the skill sets they could bring to the group.

Bruce McAllister, 224 Bahama Lane, suggested that the Task Force members submit specific tasks, discuss them, and finalize them at the next Task Force meeting. He said a list of tasks would be brought to the Council at the March meeting for approval. He further suggested that the Mayor may be more useful operating behind the scenes as the Town's official ambassador and not as an official member of the Task Force.

Mayor Coniglio stated that she believed the Task Force had done its job and had brought forward to the County, the school board, and the Sheriff's Department that the Town is not happy with the amount of money sent to the County. She spoke about the liaisons she had created with the County. She stated that the Taxpayer Action Board (TAB) was a valuable investigative resource and offered analyses deeper than a volunteer group could accomplish but she did not want TAB to represent the Town. She said she would like to see a specific direction from the Task Force for her to take forward to the County.

Council Member Diamond stated that the Sheriff's Office strongly resisted any oversight of the County Commission and he believed the school board took that same position. Mr. McAllister explained that to bring the Sheriff and school board under the oversight of the Inspector General would take legal or county charter constitutional changes. He said that the Task Force and TAB were for pushing that issue.

Council Member Wildrick asked how much the County and school board was running in deficit this fiscal year, and how much did they anticipate raising their budget next year? Town Manager Elwell stated that he would provide in writing how much the Town of Palm Beach provides to each.

Council Member Kleid stated he was a strong proponent of the Task Force. He suggested the Mayor not be the chair of the Task Force and have the Task Force members elect a chair.

There was consensus for the County Budget Task Force to come back to the Council in March with a list of action items. There was discussion on TAB and on the investigative powers of the Inspector General.

a. RESOLUTION NO. 11-11 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Urging All Palm Beach Citizens and the Elected Officials and Leadership of Various Palm Beach County Governmental Bodies to Do All Things Within Their Power to Bring the Palm Beach County Sheriff's Office and the Palm Beach County School District under the Oversight of the Office of Inspector General to Facilitate Prudent and Restrained Budget Governance with Reduced Fraud and Waste; Setting Forth Instructions for Distribution of this Resolution; providing an Effective Date.

Town Attorney Randolph read Resolution No. 11-11 by title as printed above.

Motion was made by Council Member Diamond and seconded by Council Member Pucillo to approved Resolution No. 11-11.

Council Member Kleid read from the Resolution and questioned if "waste" was an illegal act. Following discussion, Attorney Randolph suggested the wording of the Resolution be amended to read: "...that is both prudent and restrained and will also root out fraud, waste, malfeasance, misfeasance, theft and other illegal acts and abuses to the extent that such exists."

Council Members Diamond and Pucillo agreed to the motion as amended. On roll call, the motion to approve Resolution No. 11-11 as amended carried unanimously.

b. Request to Town Council for New Mayor Gail Coniglio to Fight Any Weakening of the Voter Approved Inspector General Ordinance.

c. Request to Town Council for Continuation of the Task Force and its Work and Any New Direction for the Coming Year.

d. Request to Town Council to Fill a Vacancy on the County Budget Task Force Due to a Resignation.

2. Recreation Advisory Commission Recommendations Regarding Privatization Studies for the Recreation Center and Tennis Facilities. [Jay Boodheshwar, Director of Recreation]

Jay Boodheshwar, Director of Recreation, reviewed the recommendations of the two study groups reviewing the Recreation Center and the tennis facilities. He reported that since January 5 there had been two unexpected resignations in the Recreation Department which would come close to achieving the long-term staffing model for tennis and completely achieve the Recreation Center staffing model.

The Council Members commended the study groups and the Recreation Advisory Commission for their work. President Pro Tem Wildrick stated that the recommendations represent that reducing services is not always necessary; just operating more efficiently.

A discussion followed on the need to provide staff at the tennis courts. Mr. Boodheshwar explained that the structure of the tennis program was more of a controlled environment. He reported that during high season it was very competitive to get court time.

Motion was made by Council Member Pucillo and seconded by Council Member Diamond to approve the Report of the Recreation Advisory Commission. On roll call, the motion carried 4-1 with Council President Rosow dissenting.

President Rosow explained that he voted no because he did not want to be committed to a course of action by the Report.

Danielle Moore, chair of the Recreation Advisory Commission, thanked the Council for giving the Commission the task and thanked Mr. Boodheshwar and his staff for their hard work.

3. Special Olympics Pro-Am Golf Tournament at the Par 3 Golf Course. [Jay Boodheshwar, Director of Recreation]

Mr. Boodheshwar explained that the proposal was for a partnership between the Town and Special Olympics Florida to host the Par 3 Golf Marathon Championship. He reported that under the current timeline the Championship would take place during first week of December 2011. He further reported that in addition to creating a long term potential partnership to create a revenue stream to help Special Olympics Florida, the tournament would create an opportunity for the golf course to get national exposure and to realize significant revenue. He explained that the proposal would require closing the Par 3 facility to the public for two consecutive days.

President Pro Wildrick stated that it would be an honor for the Town to host the Tournament.

Motion was made by President Pro Tem Wildrick and seconded by Council Member Diamond to approve the closing of the Par 3 facility for two days for the Special Olympics.

Mayor Coniglio questioned if the timeline could be accomplished. Matthew Levy, Vice President of Resource Developments, Special Olympics Florida, responded that in the initial year the national television package may not be accomplished. Mayor Coniglio expressed concern that the Council would be setting a precedent and asked that this type of event by approved on a case-by-case basis.

President Pro Tem Wildrick amended his motion to include future approvals of this type of event to be approved on a case-by-case basis. Council Member Diamond

seconded the motion as amended. On roll call, the motion as amended carried unanimously.

Mr. Boodheshwar gave an update on the rounds at the golf course. He reported that the new golf manager, Tony Chateauvert, had been hired and would bring the skill sets needed to move the golf course forward.

4. <u>All Town Centennial Celebration on April 17, 2011. [Jay Boodheshwar, Director of Recreation]</u>

Mr. Boodheshwar gave his final report regarding the Centennial Celebration. He reported that the celebration would conclude with an All-Town Centennial Celebration on the grounds of the Flagler Museum and would be preceded by a parade, promenade style, starting at the Day School/Recreation Center area. He explained that the events would require the closure of some roads. He spoke about the events that would be involved, transportation issues, coordination with police and fire, as well as Royal Poinciana Plaza representatives, and the logistics of the promenade. He stated that the Centennial Commission has requested that the parade include some of the public safety vehicles.

Bill Bone, chair of the Centennial Commission, reported that the Celebration would be volunteer driven and supported by the residents.

Mayor Coniglio commended Mr. Bone and the members of the Commission for their work.

Motion was made by Council Member Kleid and seconded by Council Member Diamond to approve the Centennial parade road closings as outlined and ask for participation in the parade by Fire-Rescue and the Police Department to supply vehicles that are not needed for active emergency response that evening. On roll call, the motion carried unanimously.

5. <u>Proposal for a Green Market to be Held Within the Royal Poinciana Plaza. [Thomas G. Bradford, Deputy Town Manager]</u>

Council Member Pucillo stated that generally he thought the Green Market was a good idea, particularly since the Publix Supermarket would be closed. Council Member Kleid expressed concern that the vendors in Town had some objections to the Green Market, the Palm Beach Towers had some legal questions, and there may be issues with the 1979 Agreement with the Royal Poinciana Plaza. President Pro Tem Wildrick agreed with Council Member Kleid and said there were a lot of unanswered questions. Council Member Diamond stated that he had learned that there had been a change in the Royal Poinciana Way Association Board of Directors, they had reversed their position and were unhappy with the Green Market. President Rosow agreed that a Green Market would be nice but he did not want to affect the base of merchants on the Island. Mayor Coniglio agreed that the concept was good but there were a lot of obstacles.

The consensus of the Council (4-1 with Council Member Pucillo dissenting) was not to pursue the Green Market at this time. President Rosow stated that the Council would entertain further consideration of the item if something more specific was provided.

Town Manager Elwell explained why this item was brought to the Council. He stated that in the future if the Council desires to give further consideration to this concept, he would suggest a formal review by the Planning & Zoning Commission as to whether or not a change was needed to the Zoning Code for this type of an activity on an on-going basis. Council Member Wildrick expressed concern with setting a precedent.

Town Manager Elwell stated that if a proposal comes back to staff, it would be his intent to take it to the Planning & Zoning Commission. President Rosow disagreed stating that the Council would provide direction as to whether or not they believed it was something they would support before the proposal would be sent to the Planning & Zoning Commission. The Council members agreed with President Rosow's statement.

6. Parking on Clarke Avenue. [H. Paul Brazil, Director of Public Works]

Clerk's Note: This item was discussed under Item IX. Communications from Citizens. It was deferred to the March 8, 2011, Town Council meeting.

7. Use of Public Beach Accesses by Private Beach Cleaners. [H. Paul Brazil, Director of Public Works]

Paul Brazil, Director of Public Works, reported that when staff size was reduced the Public Works Department was no longer able to clean the beaches in front of the condominiums and the condominiums hired private firms for the services. He spoke about access to the beach by the contracted cleaners. He explained that the access at Phipps Park was over a tall dune (18-20 feet) and there was concern than an inexperienced beach cleaner may have a problem. He further explained that at Mid-Town there was a flat beach but lot of beach goers. He asked the Council for a policy decision on if they wanted to allow private beach cleaners the use of Town beach access to do work on private property. He stated that there were liability concerns and it would affect existing ordinances.

Town Manager Elwell stated that staff's instinct was to not allow the private contractors access over Town property.

Council Member Wildrick stated that if the contractors were allowed access there must be legal coverage and the Town must be indemnified against any legal costs by the people hiring the contractors. He further stated that it should not be allowed if there is a safety issue at Phipps Park.

Town Attorney Randolph advised that if the Council allowed the access, a permitting system could be created with conditions that included indemnification, a hold harmless clause, and the necessary insurance.

President Rosow reminded the Council that there was a dune at Phipps Park that the Town wanted to protect.

Council Member Diamond stated there were more labor intensive ways of cleaning the beaches with less environmental impact. He suggested that private beach cleaner vehicles could be prohibited.

Mayor Coniglio stated that her biggest concern was protection of the beaches.

Jerry Frank, 2784 S. Ocean Boulevard, reported that the Citizen's Association had been cleaning beaches with the Town and now with a private contractor using the Lake Worth Beach. He further reported that at the last Shore Protection Board meeting there was a recommendation for a regulation against trespassing on the dunes. President Rosow responded that the proposed regulation could be moved to the Ordinances, Rules, and Standards (ORS) Committee for discussion.

Mr. Brazil clarified that contractors who are providing construction projects for individuals are given access at Mid-Town, after hours, on a case-by-case basis because it caused less environmental impact than crossing at the site. President Rosow suggested that ORS look at a permit fee for access to the beach or the Town Manager could recommend a fee.

XV. ORDINANCES

A. Second Reading

None

B. First Reading

1. ORDINANCE NO. 7-11 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Granting to Florida Power & Light Company, its Successors and Assigns, an Electric Franchise, Imposing Provisions and Conditions Relating Thereto, Providing for Monthly Payments to the Town of Palm Beach, and Providing for an Effective Date. [Thomas G. Bradford, Deputy Town Manager]

Clerk's Note: This item was discussed after item XII.C, Public Works Committee Meeting of February 1, 2011.

Town Attorney Randolph read Ordinance No. 7-11 by title, as printed above.

Motion was made by Council Member Diamond and seconded by Council Member Kleid to approve Ordinance No. 7-11. On roll call, the motion carried unanimously.

XVI. ANY OTHER MATTERS

Council Member Kleid questioned why the Police Department did not prevent contractors from going over the dunes. Mr. Brazil replied that the lifeguards at Phipps Park brought it to the attention of Public Works.

Frederick Keitel, 105 Casa Bendita, stated he had complained about the pavilion on Casa Bendita and asked why the Town had never received a violation so it could have been fixed. President Rosow responded that the issue had been addressed earlier in the meeting. Town Manager Elwell stated that the Town does not cite itself but tries to correct the problems in a more efficient manner.

XVII. ADJOURNMENT

There being no further business, the February 15, 2011, Town Council meeting was adjourned at 4:52 p.m.

APPROVED:

David A. Rosow
Town Council President

ATTEST:

Cheryl Somers
Acting Town Clerk

BackUp Documents 2-15-11
Supplemental BackUp 2-15-11 Clarke Ave