TOWN OF PALM BEACH

Office of The Town Clerk

MINUTES OF THE REGULAR TOWN COUNCIL MEETING HELD ON WEDNESDAY, FEBRUARY 11, 2009

I. CALL TO ORDER AND ROLL CALL

The regular Town Council meeting was called to order on Wednesday, February 11, 2009, at 9:30 a.m., in the Town Council Chambers. On roll call, all elected officials were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Town Clerk Cunningham gave the invocation. President Rosow led the Pledge of Allegiance.

III. COMMENTS OF THE MAYOR

There were none.

IV. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

There were none.

V. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

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

Laurel Baker, Chamber of Commerce, extended an invitation to the Council and the Mayor to attend a breakfast meeting, the following day, 8:00 a.m., at the Breakers, for discussion of the

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Town's development and redevelopment.

VI. APPROVAL OF AGENDA

The following changes were made to the Agenda:

DEFERRED, Item VIII.C.3.a., Variance #19-2008, to the March 11, 2009, Town Council meeting.

DEFERRED, Item VIII.C.3.b., Site Plan Review #10-2008 with Special Exception and Variances, to the March 11, 2009, Town Council meeting.

WITHDRAWN, Item VIII.C.3.c., Variance #21-2008.

WITHDRAWN, Item VIII.C.3.d., Variance #23-2008.

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

VII. PUBLIC HEARING

All witnesses were sworn in by Town Clerk Cunningham.

A. RESOLUTION NO. 13-09 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Ratifying and Confirming the Determination of the Landmarks Preservation Commission that the Property Known as the United States Post Office at 95 North County Road Meets the Criteria Set Forth in Ordinance No. 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach; and Designating Said Property as a Town of Palm Beach Landmark Pursuant to Ordinance 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach.

Historical Preservation Consultant Jane Day provided a presentation regarding the landmarking of the United States Post Office at 95 North County Road and the 236 Worth Avenue-Facade Only property, which was within the 224 Worth Avenue parcel.

Discussion occurred among the Town Council members, Ms. Day, and Town Attorney Randolph regarding the preservation of the interior of the Post Office, which would not be protected by the landmark designation, as landmarking only applied to the exterior of the building. Ms. Day explained that the federal government could demolish the building, but that there was a stipulation in the federal statutes, which noted that federal money could not be used to demolish a building that was on the National Register of Historic Places. The State of Florida indicated that ultimately the building could be demolished, but any changes to the building would likely come before the Landmarks Preservation Commission.

President Rosow commented on the possibility of the sale of the Post Office building, and that it would impact the mid-town residents in retrieving their mail.

Motion made by President Pro Tem Coniglio that the designation report be made part of the record, and to approve Resolution No. 13-09 for the ratification and confirmation of the determination of the Landmarks Preservation Commission of the property known as the United State Post Office, 95 North County Road met the criteria set forth in Ordinance No. 2-84. Council Member Diamond seconded the motion.

Town Attorney Randolph read Resolution No. 13-09, by title, as printed above.

Upon roll call, the motion carried unanimously.

B. RESOLUTION NO. 14-09 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Ratifying and Confirming the Determination of the Landmarks Preservation Commission that the Property Known as 236 Worth Avenue-Facade Only, which is Within the 224 Worth Avenue Parcel, Meets the Criteria Set Forth in Ordinance No. 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach; and Designating Said Property as a Town of Palm Beach Landmark Pursuant to Ordinance 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach.

Ms. Day noted that the property at 236 Worth Avenue was the facade only, and not the entire building, as the building had many changes in the rear of the building. She explained the criteria of the building that was met for landmarking, and provided an overview of the property.

Motion made by Council Member Kleid to approve Resolution No. 14-09, designating the facade of 236 Worth Avenue as a landmark of the Town of Palm Beach on the basis that it met criteria 1 and 3 of Section 54-161 of the Town of Palm Beach Code and the Landmarks Preservation Ordinance No. 2-84, and included the designation report. President Pro Tem Coniglio seconded the motion.

Town Attorney Randolph read Resolution No. 14-09 by title, as printed above.

Upon roll call, the motion carried unanimously.

VIII. DEVELOPMENT REVIEWS

A. Appeals

None

B. Time Extensions

None

C. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business - Less Than 15 Minutes

None

2. New Business - Less Than 15 Minutes

a. SITE PLAN REVIEW #3-2009 The application of Robert M. Feldman and Amy Feldman; relative to property commonly known as **516 South Ocean Blvd.**; described as Lot 4, SINGERS ADDITION TO THE TOWN OF PALM BEACH, according to the Plat thereof, as recorded in Plat Book 8, Page 81, Palm Beach County, Florida, Public Records; located in the R-A Zoning District. The applicant requests a site plan review to allow the construction of a 8,927 square foot two story, single family residence in the R-A Zoning District on a non-conforming platted lot which is 100 feet in width in lieu of the 125 foot minimum required. [Attorney: Maura A. Ziska]

Attorney Maura Ziska, representing Mr. And Mrs. Feldman, provided an overview of the applicant's request.

Architect Michael Perry, MP Design &Architecture, presented and reviewed the architectural plans and renderings.

Staff Comments:

Zoning Administrator Paul Castro made the following comments:

- It was important that the seawall be inspected by an engineer and reported to by the Public Works Department; and

- The road trash disposal staging area on the front of the property would need to be provided to the Town.

Responding to President Pro Tem Coniglio, Zoning Administrator Castro indicated that this item, which seemed diminimus, could not have received staff approval nor could it have been included in the Zoning Study Items, as both times it was attempted, the Council felt uncomfortable allowing staff to do administrative site plan approvals on nonconforming lots.

Motion made by President Kleid to approve Site Plan Review #3-2009, based on the finding that the approval of the site plan would not adversely affect the public interest and that the Council certified that the specific zoning requirements governing the individual use had been met and that satisfactory provision and arrangement had been made concerning Section 134-329, items 1 through 11. Seconded by President Pro Tem Coniglio. On roll call, the motion carried unanimously.

3. Old Business - More Than 15 Minutes

a. VARIANCE #19-2008 The application of John R. Raese and Elizabeth S. Raese; relative to property described as Lot 24 and the East one-half of Lot 25, Plat of JAMAICA LANE, according to the Plat thereof as recorded in Plat Book 18, Page 93, Public Records of Palm Beach County, Florida; commonly known as **286 Jamaica Lane**; located in the R-B Zoning District. The applicant requests a variance to construct a one-story enclosed accessory structure with a point of measurement of 21 feet National Geodetic Vertical Datum (NGVD) in lieu of the 17.14 feet NGVD required. [Attorney: Peter S. Broberg]
[ARCOM Recommendation: Defer to the February 25, 2009,

Architectural Commission meeting.]
Deferred from the November 11, 2008, December 8, 2008, and January 14, 2009, Town Council Meetings (Special Circumstances).

Item VIII.C.3.a., Variance #19-2008, was deferred to the March 11, 2009, Town Council meeting.

b. SITE PLAN REVIEW #10-2008 WITH SPECIAL EXCEPTION AND VARIANCES The application of BNB Ventures Palm Beach I, LLC (Len Ackerman, Manager); relative to property described as A part of Lot 36, Block E, of the ROYAL PARK ADDITION to the Town of Palm Beach, Florida, according to the plat thereof as recorded in Plat Book 4, Page 1, Public Records of Palm Beach County, Florida, as described as: Beginning at the NW corner of said Lot 36; thence south on the West line of said Lot 36 125 feet, thence East on a line parallel with North line thereof, a distance of 87 feet; thence North to a point on the North line said Lot 36, just 87 feet East of the Point of Beginning; thence West to the Point of Beginning; commonly known as **204-210 Royal Palm Way**; located in the C-OPI Zoning District. The applicant requests a Site Plan Review to construct 11,638 square foot, three story commercial building. A Special Exception is required to allow a three story commercial building in the C-OPI Zoning District. In addition, variances are being requested as follows: (a) a front yard setback of .07 feet in lieu of the 20 feet minimum required for a building and 25 feet minimum required for the tower; (b) an east side yard setback to be 0 feet in lieu of the 10 feet minimum required; (c) a west side yard setback to be 0 feet in lieu of the 10 feet minimum required; (d) lot coverage of 48.6% in lieu of the 25% maximum allowed; (e) a landscaped open space to be 9.1% in lieu of the 30% minimum required; (f) a landscaped open space in the front yard to be 17.6% in lieu of the 35% minimum required; (g) to allow a tower feature to be 4.2% of the maximum gross floor area in lieu of the 2% maximum allowed; (h) an overall height tower to be 49 feet in lieu of the 45 foot maximum height allowed; (I) to allow the architectural tower to be on the entry facade which is not permitted by code; (j) 19 parking spaces in lieu of the 35 parking spaces required (a deficit of 16 parking spaces); (k) to eliminate the need for the 1 required loading space; (l) an individual business identification sign on the proposed building to be above the first floor which is not allowed on a multi-story building; (m) a drive isle width in the parking lot to be a width of 16 feet in lieu of the 25 foot minimum width required; (n) allow the air-conditioning equipment on the roof to be 8 feet in lieu of the 4 foot maximum allowed by code; (o) to allow the parking spaces to be situated in contradiction to the maneuvering requirements in Section 134-2172; that section provides that required parking be designed so as to not require the movement of another vehicle in order to remove another vehicle from a required parking space. The applicant is proposing 11 stacked parking spaces which requires the shuffling of vehicles in order to remove vehicles from required parking spaces. [Attorney: Maura A. Ziska]

[Architectural Commission Recommendation: Defer to the February 25, 2009, Architectural Commission meeting.]

Deferred from the November 11, 2008, December 8, 2008, and January 14, 2009, Town Council Meetings (Special Circumstances).

Request for Deferral to the March 11, 2009, Town Council Meeting Per Letter Dated January 22, 2009, From Maura A. Ziska (Special Circumstances).

Item VIII.C.3.b., Site Plan Review #10-2008 with Special Exception and Variances, was deferred to the March 11, 2009, Town Council meeting.

c. VARIANCE #21-2008 The application of Conrad Yelvington; relative to property described as Lot 10, Via Vizcaya, (Less NLY 2.43 feet); commonly known as **10 Via Vizcaya**; located in the R-A Zoning District. The applicant requests a variance to allow gate posts to be constructed with a point of measurement of 5.68 feet National Geodetic Vertical Datum (NGVD) in lieu of the 3.30 feet NGVD required by code. The posts and gate would be 10.38 feet high from the crown of the road in lieu of the 8 foot maximum allowed. [Attorney: Peter S. Broberg]

[ARCOM Recommendation: Took no action on the variance as the gates were redesigned to meet Code. However, ARCOM denied the gates (carried 4-3).]

Deferred from the December 8, 2008, and January 14, 2009, Town

Council Meetings (Special Circumstances).
Request for Withdrawal Per Letter Dated February 5, 2009, From Peter S. Broberg.

Item VIII.C.3.c., Variance #21-2008, was withdrawn.

d. VARIANCE #23-2008 The application of Premier Holding Group LLC (Susan D. Hudson, Manager); relative to property described as lengthy legal description on file; commonly known as **601 Island Drive**; located in the R-B Zoning District. The applicant requests a variance to permit construction of a combination 65 foot wide concrete dock (extending 12 feet from the bulkhead), boatlift (extending 25.16 feet from the bulkhead) and three mooring piles (the furthest extending 34.75 feet from the bulkhead) in lieu of 6 feet maximum allowed for a marginal dock in this location. The existing wood dock and boat lift are to be removed and replaced by the proposed new dock, boat lift and piles. [Attorney: M. Timothy Hanlon]
Deferred from the December 8, 2008, and January 14, 2009, Town Council Meetings.
Request for Withdrawal Per Letter Dated February 2, 2009, From M. Timothy Hanlon.

Item VIII.C.3.d., Variance #23-2008, was withdrawn.

e. SPECIAL EXCEPTION #1-2009 The application of Palm Way Associates, LLC (Thomas Campaniello); relative to property commonly known as **290 South County Road**; described as ROYAL PARK ADD N 125 FT OF LT 35 AND E 13 FT OF N 125 FT OF LT 36 BLK 3; located in the C-TS Zoning District. The applicant requests special exception modification to the approval granted 11/14/2006 to permit a 4,454 sq. ft. restaurant at this location under Section 134-1109a. The restaurant is proposed to have 130 seats with 6 parking spaces provided during lunch and 19 spaces provided at night. This request is to modify the valet traffic circulation as previously approved because the alley which existed from Brazilian Avenue to Royal Palm Way was closed at the North end. The request is to allow the required parking to circulate into and out of the South alley entrance turning West onto Brazilian Avenue and travel around the block, using Hibiscus and Royal Palm Way to return to the entrance on South County Road. [Attorney: J. Barry Curtin]

(i) Parking and valet solutions, and provisions for lighting and maintenance of building while vacant.

Attorney J. Barry Curtin, representing Palm Way Associates, LLC, provided an overview of the applicant's request.

Architect Michael Mosher, presented the architectural plans and renderings.

Staff Comments:

Zoning Administrator Castro made the following comments:

- The restaurant was open, as allowed by the Council, with 107 seats at lunch and dinner;

- Circulation of the valet was one of staff's concerns;

- The previous application, prior to the property to the west being sold, allowed for vehicular circulation through the alley, back onto Royal Palm Way, and back around;

- Staff was unsure of the safety of the vehicles, as the alley way was very narrow, had been closed off, and there was not much room between the alleyway and the intersection;

- The original agreement provided for the six spaces in the parking lot;

- The applicant had further identified where the exact parking spaces would be;

- If allowed to use the additional seating at lunch, the parking spaces would have to be designated for restaurant parking only, and could not be leased to anyone else during the lunch time period;

- At night, the 19 parking spaces were available, as they were not used by the people

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who had existing leased spaces;

- Any other conditions that the Council would want to place on the operation of the restaurant or the operation of the valet, would require the modification of the agreement, as provided for by the Town in 1994; and

- The agreement would need to be modified, as there was an incorrect address in the agreement.

The Town Council and Zoning Administrator Castro discussed the following:

- Provisions in the code that determined when the restaurant would be allowed to return with a special exception for the Town Council's review;

- It was suggested that the restaurant should return in six months to one year to show that it was town serving;

- Concern was expressed about the traffic from valet parking on Brazilian Avenue and Hibiscus Avenue negatively impacting the residents.

Motion made by President Pro Tem Coniglio to approve Special Exception #1-2009, with a modification to the existing agreement that if the restaurant closed before the two-year time frame, it would be revisited by the Town Council before reopening. If the restaurant was vacated, the lighting, awnings, shutters, and exterior would be maintained; the proper window treatments would be used as established by the Architectural Commission; in six months the Town Council would review the town serving documents and valet operation. Council Member Kleid seconded the motion. On roll call, the motion carried unanimously.

f. <u>SITE PLAN REVIEW #2-2009 WITH SPECIAL EXCEPTIONS AND VARIANCES</u> The application of Dogwood Land Co., LLC., (Peter J. Callahan, Manager); relative to property commonly known as **700 South Ocean Blvd.**; described as lengthy legal description on file; located in the R-A Zoning District. The applicant requests a site plan review with special exception to allow construction of a two-story, single family residence totaling 10,079 air conditioned square feet, 11,874.5 total square feet, on an unplatted lot that is 126 feet in depth in lieu of the 150 foot minimum required in the R-A Zoning District; a variance to allow the overall height for a parapet architectural feature to be 31.6 feet in lieu of the 30 foot maximum required in the R-A Zoning District. [Attorney: Maura Ziska] [ARCOM Recommendation: Approval of the project. Carried 5-2.] *Deferred from the January 14, 2009, Town Council Meeting (Special Circumstances).*

Attorney Maura Ziska, representing property owners at 700 S. Ocean Boulevard, provided an overview of the applicant's request.

Architect Michael Perry presented architectural drawings and renderings.

Staff Comments:

Zoning Administrator Castro made the following comments:

- An explanation was provided of the parapets on flat roofs versus parapets with pitched roofs;

- Architectural Commission recommended approval, but staff failed to see the hardship; and

- Reinspection of the seawall was necessary by an engineer, to ensure the integrity of the seawall.

Responding to President Rosow, Attorney Ziska noted that the architecture was the hardship.

Council Member Wildrick moved approval of Site Plan Review #2-2009 with Special Exceptions and Variances with the condition that the seawall be reinspected by an engineer. Council Member Diamond seconded the motion. On roll call, the motion carried unanimously.

Mr. Castro noted that the applicant would have to install sprinklers in the building, as it was over 10,000 square feet, and added that it was a fire code requirement.

4. New Business - More Than 15 Minutes

None

D. Other

1. Report and Recommendations from Planning and Zoning Commission on 2008-2009 Zoning Season Study Items.
[John S. Page, Director of Planning, Zoning, and Building]

Zoning Administrator Castro provided an overview of the 2008-2009 Zoning Season Study Items. He noted that staff concurred with all the recommendations in the report and the changes made by the Planning and Zoning Commission, except for Study Item #7, condominium hotels provision, which would be explained in more detail.

Mr. Castro provided staff's input on each of the following study items:

Study Item 3. **R-B to R-A Re-zoning Study, or Modification in the R-B Zoning District for Lots 20,000 Square Feet or More in Area to Allow More Cubic Content Ratio.** Staff and the Planning and Zoning Commission recommended approval of the proposal to increase the cubic content ratio for lots 20,000 square feet or more in area in the R-B zoning district rather than re-zoning the Lake front lots to the R-A, Residential Estate, zoning district.

Discussion occurred among the Town Council, Mr. Castro, Attorney Brindell, and Mr. Bob Moore regarding the increase in the cubic content ratio (CCR) for lots that were 20,000 square feet or more in the R-B zoning district, or re-zoning Lake front lots from the R-B to the R-A zoning district.

Zoning Administrator Castro made several of the following comments:

- The Town Council may want to consider allowing more lot coverage to encourage the building of single family homes;

- The purpose of CCR regulation for the R-B districts was to provide control over the larger homes, specifically those that were located close to smaller homes.

- Rezoning the properties caused concern, because of the creation of non conformities. Many homes were built under the R-B regulations, controlled by CCR, and were allowed more lot coverage, less setbacks, and less landscaped open space in the estate district in which the re-zoning would occur.

- There was opportunity to allow flexibility for larger lots, without the expense of re-zoning properties, and all that it encompassed.

- If a lot was over 20,000 square feet, on the lake, interior, or on the ocean, it should have the same ability in terms of CCR.

Attorney James Brindell commented that he represented a group of Lake front property owners that formed a committee for Fairness in Zoning and made several of the following comments:

- There was an important distinction between Lake front properties that were more than 20,000 square feet in the R-B district and those that were not Lake front properties.

- He proposed that a new provision in the R-B district regulations be provided for the Lake front parcels that exceeded 20,000 square feet.

- The CCR increase should not apply to the Lake front parcels and should be treated the same as the properties zoned R-A parcels on the Lake front that were north of Reef Road. All of the parcels abut the R-B district.

Franklyn DeMarco, head of the Zoning Fairness Committee, asked for consideration that the Lake front properties that were zoned R-B, have the CCR requirements removed, as it was removed from all other Lake front R-A lots, north and south of them.

After further discussion, it was the consensus of the Town Council that staff work with Attorney Brindell and return to the March 11, 2009, Town Council meeting, with examples of impacts of an increase of CCR on the various Lake front lots.

Study Item 4. **Modify Ocean Vista Requirement in the Beach Area Zoning District Relating to State Law.** The Planning and Zoning Commission deferred this item to its February 3, 2009 meeting in order to consider revised language based on their comments. This item will be heard by the Council at a subsequent meeting.

Zoning Administrator Castro noted that this item would be placed on the March 11, 2009, Town Council meeting Agenda.

Study Item 5. **Modify Restaurant Outdoor Seating.** Staff and Planning and Zoning Commission recommend that outdoor seating for restaurants and dining rooms be allowed by administrative approval or special exception approval provided certain conditions being met. In addition, it is recommended that outdoor seating be allowed by administrative or special exception approval in the R-D(2), C-OPI and C-B zoning districts.

The Town Council accepted staff's and the Planning and Zoning Commission's recommendation and report for Modified Restaurant Outdoor Seating.

Study Item 6. **Intersection Vision Study.** Staff and Planning and Zoning Commission recommend that proposed sight triangle regulations be adopted. The regulations would require corner lot residential property owners that build new homes or do major renovations (work valued at more than 50% of the home value) to meet the new sight triangle standards at the intersection. The proposed language includes the requirement to layout the triangles, identify them with reflectors and eliminate all vegetation or structures within the triangular area. The proposal also provides for a waiver process which would be considered and approved or denied by either the Architectural or Landmark Preservation Commission, whichever is relevant.

Zoning Administrator Castro provided an overview of the recommendation by staff and the Planning and Zoning Commission.

The Town Council accepted and approved staff's and the Planning and Zoning Commission's recommendation of the Intersection Vision Study.

Study Item 7. **Create Condo-Hotel Regulations.** Staff recommends the creation of new zoning provisions to regulate the development and operation of condominium hotels. This proposal includes many conditions for allowing such, including creating stricter regulations for off-street parking for accessory commercial uses within hotels and condo-hotels. However, the Planning and Zoning Commission recommended not to adopt any provisions which would regulate condo-hotel development.

After discussion, the Town Council adopted staff's recommendations of the creation of new zoning provisions to regulate the development and operation of condominium hotels; and being more restrictive for off-street parking for accessory commercial uses within hotels and condo-hotels.

Study Item 8. **Study of Flags and Flag Poles.** Staff and the Planning and Zoning Commission recommend that the sign ordinance be modified to allow larger flags on certain sized properties. The proposal also includes exempting all clubs and existing situations from these new provisions.

After discussion, the Town Council gave consensus that staff would provide a list of exempt properties of the new provisions in time for the first reading of the modified ordinance to allow larger flags on certain properties.

Study Item 9. **Investigate the Elimination of Zoning Season.** Staff and Planning and Zoning Commission recommend the elimination of the zoning season (October to May). This would allow PUD amendments and zoning text amendments to be considered year round.

After discussion, it was the consensus of the Town Council to accept staff's and Planning and Zoning Commission's recommendations to eliminate the zoning season (October to May).

Study Item 11. **Re-evaluate the Proposed Zoning Provisions Related to Requiring Easements for Underground Utilities.** Staff and the Planning and Zoning Commission recommend not to pursue new zoning regulations which would require property owners to dedicate easements on the front of their properties as redevelopment occurs or to require all utility lines (primary and secondary) to be placed underground. Legal aspects of such a requirement are still uncertain and FPL is likely to challenge such a provision.

It was the consensus of the Town Council to accept staff's and the Planning and Zoning Commission's recommendations not to pursue new zoning regulations which would require property owners to dedicate easements on the front of their properties as redevelopment occurs or to require all utility lines to be placed underground.

Study Item 12A. **Revise Deferral Requirements for Special Exceptions, Variances and Site Plan Reviews.** Staff and the Planning and Zoning Commission recommend modifying the Code to adopt the policy previously approved by Council regarding deferrals of zoning cases. This is the three strike concept.

After discussion, it was the consensus of the Town Council to accept staff's and the Planning and Zoning Commission's recommendations to adopt the policy and modify the code regarding deferrals of zoning cases.

Study Item 12B. **Modify Off-street Parking Requirement for Principal of Equivalency.** Staff and Planning and Zoning Commission recommend modifying the principal of equivalency provision. The proposed modification would correct the method of calculating the required off-street parking for changes in use. The proposed standard would be based upon the off-street parking requirement for the use in the Code and not the cubic content ratio requirement. Cubic content ratio has never been used to calculate off-street parking.

It was the consensus of the Town Council to accept staff's and the Planning and Zoning Commission's recommendations to modify the principal of equivalency provision.

Study Item 12C. **Modify the Completion Deadline for Renovation of Non-Conforming Buildings.** Staff and the Planning and Zoning Commission recommend modifying the strict requirement for exceeding the time limit for restoration, renovation and reconstruction of nonconforming buildings, structures and uses. The Code should be modified to allow for the completion of projects that exceed the time limit rather than requiring them to be redesigned to meet all aspects of the Code if the project is over the deadline. The recommendation includes creating some immediate punitive remedy to encourage completion. The remedy would be determined by the Town Council, as only the Council can provide a time extension to complete a project beyond the code construction time limits.

It was the consensus of the Town Council to accept staff's and the Planning and Zoning Commission's recommendations to modify the code to allow for the completion of projects that exceed the time limit, including immediate punitive remedy to encourage completion.

Study Item 12D. **Create an Administrative Site Plan Review Approval.** Staff and Planning and Zoning Commission recommend that the Council adopt the proposal to create an administrative site plan review approval provided certain conditions being met. The proposed administrative approval would be for only small additions which would not increase density or intensity, or negatively impact neighboring property owners.

After discussion, it was the consensus of the Town Council to accept staff's and the Planning and Zoning Commission's recommendations regarding Site Plan Review approvals for staff to administratively approve items that did not increase density or intensity, or negatively impact neighboring property owners.

Study Item 12E. **Modify the Definition of "Structure".** Staff and the Planning and Zoning Commission recommend modifying the definition to be more inclusive so that other types of items can be regulated more appropriately. The current definition does not include any apparatus, equipment or vessel not permanently attached to the ground such as temporary car ports, playground equipment, barges, etc.

It was the consensus of the Town Council to accept staff's and the Planning and Zoning Commission's recommendations to modify the definition of "Structure" to be more inclusive so that other types of items could be regulated more appropriately.

Study Item 12F. **Define Commencement of Work for Zoning and Completion Requirements for Zoning Approvals.** Staff and Planning and Zoning Commission recommend modifying the Code to clarify when commencement of work has started the clock for completion of projects. This also includes tying the completion of work to the building code maximum time limits rather than the two year completion date currently required in the Code.

It was the consensus of the Town Council to accept staff's and the Planning and Zoning

Commission's recommendations to modify the Code to clarify when commencement of work had started the clock for completion of projects.

Study Item 14. **Zoning Amendment Application by Zach Ciomeck to Modify the Front and Rear Setbacks for Larger Lots in the R-B Zoning District.** Staff and the Planning and Zoning Commission recommend denial of the applicant's request to eliminate the larger front yard setback for lots in the R-B zoning district which are 20,000 square feet or more in area. However, staff and the Planning and Zoning Commission do recommend eliminating that same requirement for lots in the R-B zoning district which are 150 feet or more in depth but less than 20,000 square feet in area. The property owners on smaller lots in this district are inordinately burdened in this case.

It was the consensus of the Town Council to accept staff's and the Planning and Zoning Commission's recommendations to deny the applicant's request to eliminate the larger front yard setback for lots in the R-B zoning district, which were 20,000 square feet or more in an area. It was recommended that the requirement for lots in the R-B zoning district, which were 150 feet or more in depth but less than 20,000 square feet in an area, be eliminated.

Study Item 15A. **Zoning Amendment Application by Sidney Spegiel and the Sterling Group to Modify the Off-Street Parking Requirement for Retail Uses in the C-PC Zoning District.** The Planning and Zoning Commission deferred this item to its February 3, 2009 meeting in order to provide staff time to research the off-street parking language in the 1979 Agreement with the owners of Royal Poinciana Plaza. The applicant has subsequently submitted a request to withdraw the subject application.

This request had been withdrawn by the applicant.

Study Item 15B. **Modify the Parking Requirement for Retail Uses in all Commercial Zoning Districts as Proposed by the Town's Consultant and Staff.** The Planning and Zoning Commission deferred this item to its February 3, 2009 meeting in order to provide staff time to research the off-street parking language in the 1979 Agreement with the owners of Royal Poinciana Plaza.

This study item had been withdrawn.

2. Regulation of Appearance of Vacant Commercial Buildings. [John S. Page, Director of Planning, Zoning, and Building]

Planning, Zoning, and Building Director Page provided an overview on how the empty commercial buildings were regulated.

Discussion occurred among the Town Council and Mr. Page regarding cosmetics, window treatments, and lighting of the vacant buildings. Mr. Page indicated that staff was working with several different merchant associations on the regulations and the issue would be brought to Town Council in March or April. It was suggested that the Architectural Commission could discuss the issue with the landlords and tenants while reviewing the applications.

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The Town Council recessed for lunch at 11:55 a.m.

The February 11, 2009, Town Council Meeting reconvened at 2:00 p.m.

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IX. ANY OTHER MATTERS

Public Comment:

Mr. William Cooley, 8 Windsor Court, recalled his comments from the meeting of February 10, 2009, and added that his point had been that if the Town Council was keen on enforcing the written word, such as making citizens rotate political lawn signs, charging other citizens fines for roof violations, collecting $800 from a woman feeding a cat, or foreclosing on houses in disrepair, then why did the Town not enforce the 1979 agreement on the Royal Poinciana Playhouse. He asked why some people were required to live up to the rule of the law, and not others.

Mr. Cooley commented regarding legal issues concerning Royal Poinciana Plaza and suggested that the Town should immediately enforce the 1979 agreement, or cease enforcing all violations, because all citizens in Town should be treated the same. He suggested that the owner of the Royal Poinciana property should pay a fine for every day that they did not live up to the agreement, and the Town should stop asking Mr. Flynn, or the Palm Beach Theater Guild how much money had been raised. He quoted from the 1979 agreement, and maintained that the obligation to maintain the theater building was not the Theater Guild's obligation, but the landlord's.

Mr. Ralph DelDeo, 265 Fairview Road, commented regarding President's Rosow's comments concerning the possibility of referring some Everglades Island architectural matters to the Planning and Zoning Commission.

President Rosow assured Mr. DelDeo that it was not his intention to revisit the north end cubic content ratio (CCR) discussion.

Council Member Diamond questioned the Town's position relative to the 1979 Royal Poinciana agreement.

President Rosow requested that the matter be added to the agenda for next month, so that it could be properly researched and discussed at that time.

Mr. Patrick Flynn commented regarding the comments of Mr. Cooley, and the agenda for next month.

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Council Member Kleid commented regarding the objectives set forth by President Rosow, expressing the following concerns: some of the items would require micro-managing; the history and ongoing nature of some of the items; items that would require budget expenditures; items that would require additional time from the Town Council.

<u>Review of Objectives Submitted by President Rosow at the February 10, 2009, Town Council Meeting:</u>

1. Finance and Taxation Committee:

Continue researching the cost-effectiveness of our current benefits package, without impacting our current employees -- I repeat -- without impacting our current employees. The Committee's focus must be on lowering the cost of programs for our new hires. The Council should discuss their report in July 2009 so any adjustments can be incorporated in next year's budget.

Discussion and Consensus:

Discussion included:

- Two tier system of employee benefits;
- Finance & Taxation Committee review of benefits package, and reporting back to the Town Council with a variety of suggestions;
- Holding Special Town Council meetings for review and examination of alternatives for employee benefits package.

Mr. William Guttman, 216 West Indies Drive, commented regarding his reviewed of the pension plan of the City of New York, and suggested that the Town Council direct that there be rigorous research to determine what other communities were doing in regard to defined benefit plans.

Consensus: The Finance & Taxation Committee will review employee benefits and then report to the Town Council by July 2009.

Mr. Ned Barnes, President, Palm Beach Civic Association commented that the Civic Association was putting together a group that would review pensions, and offered the assistance of the Civic Association in that regard.

2. Review the Town's Reserves relative to our needs, compare our requirements with other municipalities and insure we are adequately protected - without duplication. That report should coincide with the benefits review, also in July 2009.

Discussion and Consensus:

Town Manager Elwell commented that Town staff was currently preparing a long term financial plan update, for presentation at the March 10, 2009 Town Council meeting, and requested clarification regarding whether the information would be presented at the Finance & Taxation

Committee meeting, or at the Town Council meeting in March.

In response to Council Member Wildrick, Mr. Elwell advised that he would send the explanation of the assumptions that had been used to prepare the long term financial plan.

Consensus: Agreed that this matter will be reviewed by the full Town Council at the March 10,2009, Town Council Meeting.

3. In August, upon receipt of a report from the Public Works Committee, which is described later, begin an analysis of the costs and financing alternatives for the projects recommended by the Committee and the Council. That report should be before the Council in October 2009.

Consensus: Proceed as suggested by Town Council President Rosow.

4. Embark on a Five-Year Financial Plan for the Town. In June the Committee should recommend to the Council a series of assumptions and then, upon Council approval, work with Staff to create a variety of scenarios for the Council to study. That work should be completed by December 2009.

Discussion and Consensus:

President Pro Tem Coniglio, as 2008 Chair of the Public Works Committee, pointed out that there was already a twenty year plan available, and the Town Council would be able to choose the financing alternatives.

Consensus: Staff will present the updated Long Term Financial Plan at the March 10, 2009, Town Council Meeting.

5. Recommend financing options for the Reach 8 Project by March 2009.

Discussion and Consensus:

Brief discussion occurred.

Consensus: Staff directed to present Reach 8 financing options at the March 10, 2009, Town Council Meeting.

6. Recommend budget guidelines to the Council for the coming financial year. This report should be completed by May.

Discussion and Consensus:

Brief discussion occurred.

Consensus: Staff directed to present recommended budget guidelines at the March 10, 2009, Town Council Meeting.

7. Ordinances, Rules and Standards
Initiate a comprehensive review of our Ordinances, recommend eliminating those that are no longer useful and propose changes, if necessary, to our existing Codes. Last month, for example, the Council reviewed a variance request for awnings on a condo building, solely because of an arcane situation in our Ordinances. ORS should have that report in to the Council in November 2009.

Discussion and Consensus:

Town Manager Elwell requested that staff would accomplish the initial phase of work sometime in the early summer, giving enough time to accomplish this objective by November 2009.

Consensus: Staff directed to provide the Ordinances, Rules and Standards Committee with a list of obsolete ordinances by early summer, giving the Committee enough time to accomplish this objective by November 2009.

8. Work with ARCOM to establish uniform and appealing signage as well as holiday lighting

standards -- without the need for additional studies. ARCOM is currently discussing these issues, and I would ask the Committee to urge them to engage in experimentation to test possible solutions. I suggest ORS and ARCOM present a final report to the Council for action at its meeting in June 2009.

Discussion and Consensus:

Brief discussion occurred.

Consensus: The Beautification Committee composed of Town citizens will provide ARCOM with information regarding the long term beautification program and holiday decorations, which will then be reviewed and presented to the Town Council within the time frame suggested.

Town Manager Elwell clarified that he understood that ARCOM intended to complete its work in this regard by June 2009, in order to have some lead time to plan for the holiday season, and to address related funding issues. He noted that Public Works Director Brazil had advised that he had been requested to provide monthly updates regarding the ongoing beautification plans.

Mr. Ned Barnes, President Palm Beach Civic Association, commented regarding the beautification plan and the efforts of the Civic Association.

9. Public Safety Committee:
Should prepare a study of the departments to insure they are appropriately staffed and that they have the tools necessary to keep our residents safe. They should look for the most cost effective ways to maintain our safety. As an example, why do we patrol for parking violations at night during the summer? Their findings should be reported to the Council in July 2009.

Discussion and Consensus:

Brief discussion occurred.

Consensus: Public Safety Committee will prepare a study of departments and report back to the Town Council at the July Town Council Meeting.

10. Public Works Committee:

Should recommend a management program and schedule to replace our sewage system as well as determine if it is practical and prudent, from engineering and cost benefits, for that work to incorporate:

- a new water distribution system, for potable or non-potable water,
- under-grounding our power lines – north/south, the entire island or laying conduit for future use

Their report and recommendations should be ready for presentation and Council discussion in August 2009 to give Finance & Taxation time to prepare its recommendations by October.

Discussion and Consensus:

Public Works Director Paul Brazil advised that the twenty year plan had been presented; long discussions had been held regarding non-potable water and perhaps burying the underground utilities in concert with all of the other work being done. The best that could be offered at any time soon would be a cost for designing those systems – it would have to be known where the systems would be put in, and that information could be incorporated into what was already prepared. Mr. Brazil advised that staff had spoken with Florida Power & Light (FP & L) over the years regarding designing each of the underground wiring phases, and staff would have a reasonable estimate for that design; an engineering estimate (which was a much easier estimate to do) could be provided for the non-portable system.

President Rosow explained that his concern was that he did not believe that discussion had ever taken place regarding doing the underground wiring in conjunction with another project, such as the sewage system. He explained that he was trying to determine if there was a cost saving in combining projects.

Council Member Wildrick commented regarding moving forward with a plan. Council Member Kleid provided comments regarding historical perspectives regarding ongoing work.

Town Manager Elwell pointed out that the twenty year plan addressed all of the maintenance and replacement of existing facilities; it did not provide for any new facilities. He requested clarification regarding the proposals being made, since there would be a design effort needed, cost proposals would need to be presented ; he requested direction as to whether that would be brought to the full Town Council or to the Public Works Committee.

Consensus: Staff will begin this project by obtaining proposals from consultants for design of the water distribution system and undergrounding.

11.5 Water Committee:

We must find a solution to safeguard our water supply and determine our future. The Committee should work closely with both the City of West Palm Beach and Florida Power and Light on their pending programs.

I would like to ask the Civic Association, in conjunction with the Water Committee, to develop a baseline showing actual water usage. Together, they should also develop a conservation program -- without jeopardizing the beauty of our Island's vegetation. The Water Committee should report its recommendations to the Council in December.

Discussion and Consensus:

Mr. Ned Barnes, President, Palm Beach Civic Association, recited language from the minutes of the last Water Committee meeting: "... directed the staff to evaluate the top one-hundred users, and develop a typical range of lots, water usage, etc., and staff would work with West Palm Beach arborists, horticulturists, to develop rates for a normal water consumption." He asked if that was what Mr. Rosow was now asking the Civic Association to do?

President Rosow replied that he would like the Civic Association to help in that effort. He explained that water demand should be known, prior to going ahead with building a plant.

Mr. Barnes replied that the Civic Association would be happy to help, and that he would run it through the Civic Associations committees within the next several weeks, and return with a proposal.

Consensus: The Palm Beach Civic Association committees will review and return with a conservation plan proposal. Staff directed to await the recommendations of the Civic Association, so that all efforts between the Civic Association, Town staff, and the City of West Palm Beach can be coordinated in moving forward.

12. ARCOM:

The charm and appeal of Palm Beach is due in large part to the diligent work of ARCOM and our comprehensive zoning regulations. The Council, through Development Review,

01/29/2010

does have the final decision in protecting the character of our Town. I hope the Council will agree that "MacMansions" and architectural style changes within neighborhoods (as is presently the case on Everglades Island, for example) is not a direction in which we should proceed. Estate-size homes should be limited to estate-sized lots and ARCOM should notify all architects that the Council is very serious about preserving the integrity and styles of the neighborhoods within our Town. If necessary, we should consider this as a Study Item for the Planning & Zoning Commission.

Public Comment:

Mr. William Guttman commented regarding the discussion of ARCOM regarding scaling back of sizes of homes according to the size of the lot. He requested additional information regarding the proposal of Mr. Rosow, as it would relate to the Planning & Zoning Commission.

Discussion and Consensus:

Brief discussion occurred.

Consensus: No further action required at this time..

13. Landmarks:

I am pleased the Sterling Organization has submitted their plan to Landmarks for review. Everyone acknowledges the importance of that 12-acre site in the middle of our Town and no one wants it to decline further. As Landmarks Chairman Pandula stated recently, the Theater is the "6,000 pound gorilla in the room." I propose that Sterling and the Save the Theater Group join with the Town in a true independent study commissioned by the Council to determine whether the existing theater can succeed or whether a new theater should be constructed. I suggest that the Town contribute one-third of the cost of that study and the Sterling Organization and the Theater Group each contribute one-third. All parties must agree by our March meeting to be bound to the determination of the study.

Should any party choose not to participate, the Council can then initiate strong alternatives to resolve the issue of the Theater and the future of the Plaza. I would ask Landmarks to coordinate this study and its report should be given to us in September 2009. In the interim I would ask that the Commission work in a proactive manner with Sterling to discuss the Plaza.

It is time for the rubber to meet the road. It is time to move beyond the status quo, stop the constant quarreling over the theater and make informed decisions

Discussion and Consensus:

Town Manager Elwell explained that the application pending before the Landmarks Preservation Commission (LPC) was a Conditional Certificate of Appropriateness to allow the LPC to review what was proposed to the Town Council.

Town Attorney Randolph advised that there was much to be done before a permit could be issued to do anything on the property; staff was in the process of making a list of conditions that would be attached to any motion that would be made by LPC in regard to the application. The reason that the application was before the LPC now, as opposed to a later date, was that the Town Council had indicated that the feedback of the LPC was desired prior to issuance of any Certificate of Appropriateness being granted.

Consensus: The 1979 Agreement regarding Royal Poinciana Plaza will be on the agenda for the March 10, 2009, Town Council Meeting. The redevelopment proposal will be considered at the February 18, 2009, Landmarks Preservation Commission meeting, and the Town Council took no further action at this time.

Mr. Gene Pandula, Chairman Landmarks Preservation Commission commented that the Royal Poinciana Plaza was on the agenda for the upcoming LPC meeting. He noted that it would be of great assistance to the LPC if it could start from a place that was acknowledged by various parties as being the correct starting place. He suggested setting a benchmark level of conversation prior to the upcoming meeting. He suggested that there would be merit in pointing out the pluses and minuses of what would be available and applicable to the property.

Further discussion took place regarding the discussion of the LPC.

Ms. Lori Volk, John L. Volk Foundation, commented regarding the demolition plans included in the application submitted by the Sterling Group/Mr. Spiegel, and read and submitted a portion of the application into the record. She referred and entered into the record, the court order, dated July 10, 2007, in the case of Poinciana Management vs. Town of Palm Beach. Ms. Volk also stated and entered into the record that the Palm Beach County Property Appraiser's website indicated that Mr. Spiegel was the owner of the property, and that he was still was the registered agent.

President Rosow advised that the Town Council made the decision to landmark the property; the only process available to the owners was to now go to the LPC.

Town Attorney Randolph clarified that one of the conditions which would necessarily be put in place, in the event the LPC acted affirmatively on the application, would be that the Town Council would need to give consideration to amending the 1979 agreement, because the agreement did contain a prohibition on demolition.

Mr. John Ripley, Preservation Foundation commented regarding the Royal Poinciana Plaza and suggested that the Town Council consider a potential study to determine what it would cost to get the theater building up and running for use within the confines of the 1979 agreement, with the property owner and all others involved agreeing on the focus of such a study and who would do the study.

14. Planning & Zoning:
Some residents have indicated a concern that Zoning decisions might be made during the dead of summer when "the Town shuts down". This is not a seasonal responsibility – it is appropriate the Commission meets throughout the year and address zoning throughout the year.

Consensus: This is already being addressed as a Zoning Season item.

15. We recently asked Planning & Zoning to hold public hearings on the Royal Poinciana District to insure all residents have an opportunity to voice their points of view to the Commission. They are doing so in early March. The Council should provide funding for two mailings to our residents, explaining where we are in the process and soliciting their opinions. If residents don't show an interest in the future of the area, the Council, in conjunction with Planning & Zoning, will make decisions.

If I sound frustrated, I am. This issue, and many others, is extremely important to our Town. Too often a few residents and businesses dominate discussions. I believe we have much to gain by soliciting opinions outside of the normal cast of participants. I know we had an intense period of design activity that produced wonderful drawings of beautiful buildings typical of form-based zoning. At the joint meeting of Commissions held last June, form-based zoning was discussed and rejected. At the same time, however, I do not believe a consensus developed regarding residential density, building height, lot coverage or parking. This Town belongs to the residents and we need their input on these vital issues. If we are successful in achieving participation, the meeting should be held someplace sufficient to accommodate a large gathering. Planning & Zoning should provide a report on these meetings and recommendations to the Council in April.

After receipt of the report, the Council should then offer direction to the Commission in May; the Commission would begin drafting Zoning regulations for comment by August of 2009 and provide final recommendations to the Council in November 2009.

Discussion and Consensus:

Mr. William Guttman commented regarding the coordination of a Town mailing, to be limited to only those residents who were not members of either the Palm Beach Civic Association or the Citizen's Association of Palm Beach. He also commented regarding the venue for the public hearings.

Council Member Coniglio expressed concern for the cost of the mailings, and the possible costs of outside consultants to help the Planning & Zoning Commission in their deliberations of the discussion items at the public meetings.

Mr. Guttman replied that the public meeting to occur on March 4th and 17th were basically visioning exercises, intended to focus on population density, height, lot coverage and parking. The Town Council would then be in a position to take the next step. He stated that he did not believe that the Planning & Zoning Commission had the expertise to draft a comprehensive plan and zoning regulations for the Royal Poinciana Business District. He noted that the Treasure Coast Regional Planning Council (TCRPC) had agreed on the sum of $70,000 for their assistance. He suggested that it was his preference to move as fast as possible, as soon as TCRPC was ready to work, so that a set of collective recommendations could be made to the Town Council, as drafted by both staff and TCRPC.

President Rosow stated that he would pay for the mailings to residents, if the Town did not have the money; he requested that Mr. Guttman work with staff as to what the mailings should include. He requested that Mr. Guttman return to the Town Council with a time schedule to work with TCRPC

Town Manager Elwell clarified the funding for the mailings and thanked Mr. Rosow for the donation; he also clarified that the mailings would come from the Planning & Zoning Commission, and that staff would work together with Mr. Guttman to get the information together for the mailing.

Planning, Zoning & Building Director John Page commented that staff would determine the venue for the meetings, and would try to take care of that within the next day or so.

Consensus: **Town Council President Rosow offered to pay for the mailing to come from the Planning and Zoning Commission to notice the meeting. Meeting venue will also be changed to a larger facility. Planning and Zoning Commission will begin drafting zoning regulations in the fall of 2009. Submittal of recommendations to the Town Coumcil will occur after November 2009.**

16. We have a serious issue regarding our commercial areas -- many vacancies and unfortunately the possibility of more. I believe it would be extremely beneficial if Planning & Zoning meets with the property owners and tenants to determine how the Town can make our process more user-friendly -- with the ultimate goal more successful and vibrant commercial areas. We must be proactive in the viability of these areas. We must prevent Palm Beach from becoming just another Florida seaside community. The Commission should provide us with recommendations in June.

<u>Discussion and Public Comment:</u>

President Pro Tem Coniglio commented that it was a great idea to create a new vibrancy in commercial areas, however, she stated that she was concerned about giving the Planning & Zoning commissioners the job of going out and meeting with them.

Mr. Guttman replied that either the President of the Town Council, or perhaps the Town Manager should possibly appear before the Palm Beach Chamber of Commerce, the Worth Avenue Association, South County Association, Royal Poinciana Way Association, and invite all of them to participate. He stated that he was not quite sure whether the focus was on the Town serving issue, or if it was meant to be broader.

President Rosow replied that his concern had been what was being done to take care of commercial interests in Town.

Mr. Guttman questioned whether the Town serving issue should include more than just commercial interests. He suggested that Town serving be treated as one planning issue, and process be treated as another separate issue.

President Rosow requested that Mr. Guttman return in June with the recommendations.

Town Manager Elwell clarified that the process portion of the proposed objective, including comments made by the Palm Beach Chamber of Commerce for the Strategic Plan discussion, may be considered at the March 10, 2009 Town Council meeting under the Strategic Plan discussion.

Consensus: Staff will address this item after receiving further direction from the full Town Council, when the Chamber of Commerce comments on the updated Strategic Plan are considered at the March 10, 2009, Town Council meeting.

17. Many residents have asked me to emphasize the need for Publix to build a Greenwise store in Palm Beach. I discussed this with Peter Elwell who pointed out that this type of grocery store would lure off-island shoppers as well. Planning & Zoning should seek input and make certain the residents recognize the pros and cons of each plan. Once Planning & Zoning is prepared to initiate these studies - without consultants -- I would again ask the Council to establish a budget for resident mailings so that Planning & Zoning can obtain residents' input for the Council by October 2009.

Discussion and Consensus:

President Pro Tem Coniglio commented that it was not Town property, and she was hopeful that the store would stay here, and it all concerned the property owner's ability to operate.

Council Member Kleid stated that suggestions could be made, but not insisted upon.

Council Member Diamond commented that the retail establishments had to survive, and if they did not survive, the residents that object to off-island shoppers would have to pay higher taxes, so it was all entwined; he urged an open-mind regarding the Town serving issue.

Laurel Baker, Palm Beach Chamber of Commerce commented that the Chamber had done a residential survey last year, and the results were sent to Town staff. Over 700 people had identified the types of stores that they wanted.

Consensus: No further action at this time.

18. Shore Protection Board

The recently created Shoreline Protection Board's responsibility is to develop a plan to safeguard our Town's Beaches.

- What happens if the Judge rules against our permit in Reach 8? What happens if the appellants appeal? While we must always express confidence, we must have a contingency plan -- but we do not have Option 2 waiting in the wings. Do we intend to wait until a disaster occurs? The Council, therefore, must make the creation of Option 2 for Reach 8 and Reach 7's eroding area one of the Shore Board's highest priorities.

- The Board should not be engaged in discussion about the Sand Transfer Plant, since the Council will, I am certain, appropriate money for the construction of the Plant. The Council also understands the positive impact of a pipeline to help move the sand down-island.

- We need solutions. We need answers as to how to protect our shoreline. The Shore Protection Board should treat this as a regional problem – not an inlet-to-inlet problem. The Board should review projects adjacent to our Town, elsewhere in the State and up the east coast, from Georgia to Maine. I ask that residents who have been involved in any beach projects to please contact the Shore Board and provide the names of engineers and consultants used on those projects. Ideally, we can learn how other communities have utilized structures to protect their beaches and use that information to determine which methods would be most beneficial to us.

- The Board should continue to examine the Erickson Report, challenge our current team, Staff and consultants to address any pertinent issues and, advise the Council accordingly at the April meeting. If the report is valid, we must not repeat the same mistakes.

- The fundamental responsibility of the Board is to determine how we can maintain sand on our beaches, without dredging and pumping every few years. The Board must identify "hotspots", prepare to recommend experiments, explore groins, breakwaters, revetments and sea walls, as well as other reasonable alternatives.

- For many years our residents have been promised beautiful sandy beaches. It is our responsibility to fulfill that promise. I hope the new members of the Council will join Gail, Dick, and myself in reaffirming our commitment to getting sand on the beaches. We don't need more debate – we need action. We need long-term solutions.

- The Commission must accelerate its pace of meetings and provide a plan to the Council no later than November 2009.

- It is time to stop talking about sand. It is time that we deal with this vital issue with a sense of urgency.

Discussion and Consensus:

Brief discussion occurred.

Consensus: **Shore Protection Board directed to accelerate its meetings, identify a contingency plan for Reaches 7 and 8, and provide a long term plan of action (with options) for Town Council consideration in November 2009. The Shore Protection Board is to focus on what should be done, and leave it to the Town Council to decide how to pay for it.**

Town Manager Elwell advised that the report was almost finished, and would be ready in the next few days. Town Manager Elwell advised that he would work with the Shore Protection Board to determine what expedited calendar would be workable for them.

19. Variances:

I have two alternatives on how we might deal with Variances in the future.

- I would suggest the Council direct ARCOM to find alternative solutions rather than recommend variances. I would also recommend that if we adopt this proposal, the Council consider having the Chairman or Vice Chairman of ARCOM appear before the Council with explanations as to why an Applicant's variance request is a hardship. Perhaps this will reduce the number of variances.

- As an alternative I suggest we establish a three-person committee of former elected officials to act upon Variances. Rather than reviewing setbacks, our Council should be spending more time determining policy for the future of our Town. Let's put this item on the agenda for our March meeting.

Consensus: **Agreed that the discussion of alternatives to address variances would be included on the March 11, 2009 agenda.**

Council Member Wildrick commented that if a committee was formed to act upon variances, then there would need to be a very strong ethics group and a conflicts of interest group formed.

Mr. John Ripley, Preservation Foundation commented in agreement with the comments of Council Member Wildrick.

20.. Unfortunately, ethics and personal responsibility have become major concerns in all levels of government. Palm Beach should take this issue seriously and lead the way in an ethics program. The Town Manager has recommended a two-year lobbying ban for employees, which I believe should include Council members. In an attempt to be proactive, I suggest we form an Ethics Committee of the Council to recommend appropriate criteria for our Boards and Commissions. That report should come before the Council for action in April of this year.

<u>Discussion and Consensus:</u>

Brief discussion occurred.

Consensus: Ethics Committee will be created with Council Members Diamond (as Chair) and Kleid. Recommendations will be brought to the March 10, 2009, Town Council meeting.

Town Attorney Randolph commented that there was a difference between having a committee that was going to make recommendations to the Town Council, and a committee who would sit in review of these issues. He suggested that the idea of having staff provide all of the information they had available relating to ethics to a two-person committee, would allow that committee to recommend to the Town Council what, if anything, ought to be done.

21. Historically, the Council has permitted Staff to hire consultants for various Committees and Commissions from approved firms, without input from the relevant body. I suggest the Council approve a change to that process: For example, the Staff would recommend a consultant to the Planning & Zoning Commission, the Water Committee, etc., but the Commission or Committee would have the final determination as to which Consultant is engaged.

<u>Discussion and Consensus:</u>

President Pro Tem Coniglio pointed out that the current process involves a Selection Committee reviews those who submitted the RFP, and provides a selected list to the staff. She expressed concern with adding another layer with having the Commission or Committee, and considered that there would need to be further discussion in this regard.

Council Member Wildrick commented that he did not believe that it was good policy to have staff choosing consultants, and that staff should make recommendations, with the final decision being made by the publically appointed board, which would then report to the elected officials.

Public Comment:

Mr. William Guttman commented that he believed it was worthwhile that once the Planning, Building & Zoning Department narrowed down finalists for consultants, that the Planning & Zoning Commission be introduced to the finalists and be able to then share their views with the staff.

In response to Mayor McDonald, Mr. Guttman clarified that the Planning & Zoning Commission could review finalists in one of three ways: only by the Chairman; by the entire Commission; or one-on-one with each member of the Commission. Mr. Guttman stated that he would recommend review either by the Chairman of the Commission individually; or by the entire Commission in the Sunshine.

President Rosow commented that the Selection Committee could provide a list of consultants to the Commission, for them to determine which consultant would be hired, after hearing staff comments.

Town Manager Elwell pointed out that there was a process in the State Statutes for selecting certain types of professionals, and those meetings were held in public. Currently, there were some professional consultants that were not covered under the Statutes, and he suggested that when those type of consultants were selected, that the same type of process be utilized, with the Chair of the applicable Commission on the panel. After the group had made selections, staff would most likely be in the best position to decide which of the recommended consultants was the right one for the particular project.

Consensus: Board and Commission chairs will participate in selection committees when consultants are being retained to assist that applicable board or commission.

22. Last month we discussed how the Town might participate in infrastructure funding offered by the Federal Government. Yesterday I was pleased to see that our lobbyists are working to

procure funding for a number of our infrastructure programs Since the Mayor and Staff are responsible for coordinating the activities of our lobbyists they should include a monthly report as a regular part of our Agenda.

In addition, I suggest we determine the effectiveness of our lawyers, consultants, lobbyists and Staff based on the share of the Economic Stimulus package Palm Beach receives.

Discussion and Consensus:

President Rosow commented that he considered that it would be interesting to have a monthly report.

Consensus: No further action taken at this time.

23. Last year the Council made it quite clear that the Town is opposed to the current expansion plans for the Port of Palm Beach and the Palm Beach International Airport. I would like this Council to reaffirm those positions and ask the Mayor to strongly support our position when representing the Town at those agencies' meetings.

Discussion and Consensus:

Reaffirmed opposition to the Port of Palm Beach expansion and the Palm Beach International Airport expansion.

Consensus: The Town Council is still opposed to the Port expansion.

24. In the recent election some candidates suggested a Town PAC, which is a powerful idea. We must generate more influence with our County, State and Federally elected officials and actively support those candidates who will champion Palm Beach. I will seek pro bono counsel on how such a PAC may be formed.

Discussion and Consensus:

Brief discussion occurred.

Consensus: Agreed that a PAC should be created on behalf of the Town.

25. Many of our residents are experiencing extreme hardship during these difficult financial times. Their taxes are a valid burden; water and electric expenses have escalated. Our restaurants and businesses are suffering. It is, therefore, imperative we make certain our Town is run efficiently and every penny spent wisely.

    In October, after approving our budget less than 30 days earlier, and after the stock market plummeted, I stressed the need for a hiring freeze and asked that other steps be taken to make certain we carefully protected our residents' tax money. Again today, I call for a hiring freeze, and ask that we empower the Finance Committee to work with Staff to reduce costs. While we have many billionaires in our Town, we have considerably more retirees with much smaller resources. We must learn to accomplish more with less.

<u>Discussion and Consensus:</u>

Town Manager Elwell commented that the first hiring freeze policy, two years ago, was that all vacancies would stay vacant, except in circumstances where that would not be in the best interest of the Town, primarily in public safety. The procedure was that whenever the freeze policy was over ridden, the Town Manager would do that in writing, and copy the Town Council. At later times, there was then some discussion regarding whether to have a Town Council direction hiring freeze, and the decision by the Town Council had been not to do that. Mr. Elwell explained that, in the big picture, the status of the hiring freeze was continuing on forever, because from here on, any staff position that was authorized in the budget would be left open for a while, allowing departments to consider ways in which the operations could be adjusted. If the department director believed that the vacancy then needed to be filled, a written recommendation was submitted to the Town Manager, and the Town Council would be advised.

Mr. Elwell noted that he had advised the department directors in January of this year that until the budget process was reviewed, that he would not be approving any vacancies being filled.

President Pro Tem Coniglio requested that the Town Council wait until budget review to determine what would need to be cut in the budget.

Mayor McDonald expressed concern regarding public safety positions. In response, Town Manager Elwell explained that the positions that had been previously authorized up until November were currently being finished; however, any position that becomes vacant since then is being held vacant. He explained that for the next few months, until budget review, it was his intent to have that also apply to public safety, since they do not hire on a continuous basis, but tend to hire in clusters.

Mr. Elwell further explained that there were currently vacancies in both public safety departments; he had been directed to get back up to full staffing; the recruitment process to do that was being completed; if no employee left employment between April and May, then staffing would be at full level during that period; if an employee left during that period, then it was his intent to leave those positions vacant for the short period of time prior to the budget review.

Consensus: Hiriing freeze will remain in effect as imposed by Town manager Elwell. Police office and firefighter positions becoming vacant at any time, would be filled as promptly as possible; they would be exempt from the freeze.

Further discussion took place regarding the budget process.

26. Last week Peter Elwell and I briefly discussed the upcoming budget. He said staff was beginning to look at ways to reduce expenses. I have two suggestions:

1. Encourage Town employees to find savings and offer a bonus of 10% of any verifiable savings they suggest; they know just where to look.

Discussion and Consensus:

Brief discussion occurred.

Consensus: Agreed that it would be up to the Town Manager to work out a program.

Town Manager Elwell clarified that the criteria of the program would be creating a savings, with no reduced level of service, and that parameters would be included in the program.

2. We would realize immediate savings if we merged the Fire and Police Retirement Boards. This should be completed by next month

Discussion and Consensus:

Ms. Carol Rathborne, Chairman of the Firefighters Retirement Board of Trustees reported that the merging of the Fire and Police funds had been discussed. The firefighters had conducted a poll, and the decision was 99% in favor of a merger. She noted that the Firefighters Retirement Board of Trustees had met today, and the trustees were polled, and it was unanimous in favor of a merger. She provided estimates of expected costs savings, approximately $150,000 per year, not inclusive of transitional expenses in putting the funds together.

Major Richard Howe, Police Department, commented that the police had not held any discussion in this regard, and had not been a party to any discussion to date.

Council Member Wildrick clarified that it would not affect any pension benefits negatively.

Consensus: Police Officer and Firefighter Retirement Boards will offer recommendations to the Town Council.

27. A week ago Monday, Peter Elwell Peter and I discussed how the Council might become more involved in the process of hiring a new Police Chief. He subsequently held that conversation with other Council Members. Peter indicated to me that resumes of semi-finalists would be submitted to the Council members; we will review them and offer our comments to Peter. Once those have been narrowed down to a final group, Council Members will have the opportunity to interview each candidate and again offer our comments to Peter. I believe this will help Peter in his assessment and the Council's involvement will insure that the residents have a stake in the success of this important hire through their elected representatives.

Consensus: No further action at this time.

28. There is another matter I feel would significantly benefit our Town. The Council appoints members to the various Commissions and has tended to use seniority as a guideline. I urge that our Council Members abandon that criteria and make appointments based on the most qualified person and not how long they've served as a voting member or alternate. I know residents who have not volunteered because of our system. They are qualified to serve and we would gain tremendously from their services; however, we have a process that may require a wait of up to four years before they have a voting seat. Let's find a way to utilize the expertise we have in our great Town.

<u>Discussion and Consensus:</u>

President Rosow suggested the use of expertise, rather than seniority, in making appointments to the various boards/commissions, especially in the case of exceptional potential candidates

President Pro Tem Coniglio commented that she had not followed that criteria, and noted that the value of being an alternate was learning the history and being able to move forward. She stated that she was concerned with losing the historical memory and the education that occurs with having an alternate.

Council Member Kleid agreed with the comments of Ms. Coniglio, since he had served as an alternate on the Planning & Zoning Commission and had the benefit of learning their process. He pointed out that even though an alternate cannot vote, an alternate was free to participate in discussion.

Mayor McDonald commented that he had lived under the system both ways, and that previous Town Councils had found that making subjective decisions found that it created more political repercussions, because the decisions seemed to be made for political reasons, not for expertise reasons. That was the reason that it was changed to having every new member come on to the board/commission as an alternate and work their way up.

Consensus: No further action taken at this time.

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Council Member Diamond congratulated President Rosow on being proactive in setting forth the objectives.

. ADJOURNMENT

There being no further business, the Town Council meeting of February 11, 2009, was adjourned at 4:30 p.m.

APPROVED:

David A. Rosow
Town Council President

ATTEST:

Joanna Cunningham
Town Clerk