

**MINUTES OF SPECIAL TOWN COUNCIL MEETINGS AND
LOCAL PLANNING AGENCY
HELD ON FEBRUARY 5, 1996 AT 4:00 P.M., 5:01 P.M., AND 5:15 P.M.**

LOCAL PLANNING AGENCY MEETING

I. CALL TO ORDER AND ROLL CALL:

President Lesly Smith called the Special Town Council meeting, sitting as the Local Planning Agency, to order at 5:15 P.M. On roll call the following Elected Officials were found to be in attendance: Mayor Paul Ilyinsky, President Lesly Smith, President Pro-Tem Jack McDonald, Councilmen Leslie Shaw, Sam McLendon, and Allen Wyett. Also attending were: Town Manager Robert Doney, Assistant Town Manager Peter Elwell, Assistant to the Town Manager Dave Jakubiak, Director of Public Works Al Dusey, Town Engineer James Bowser, Director of Recreation Russell Bitzer, Zoning Administrator Paul Castro, Planning/Project Coordinator Tim Frank, Consultant from Adley, Brisson, Engman, Inc., William F. Brisson, and Town Clerk Mary Pollitt.

**II. COMPREHENSIVE PLAN EVALUATION AND APPRAISAL REPORT
REVIEW:**

**A. Consideration of Zoning Commission's comments on the draft Evaluation
and Appraisal Report (EAR)**

Mr. Robert Moore, Director of Building & Zoning, addressed the Town Council, stating that the Evaluation and Appraisal Report (EAR) was rather like a mid-term report card. The 1985 Growth Management Act mandated all communities and government jurisdictions to produce a Comprehensive Plan for approval by the Department of Community Affairs, State of Florida. A plan had been submitted for the Town of Palm Beach, and, after some negotiation with the State, it was approved. Mr. Moore announced Mr. Brisson would give a short presentation dealing with the various aspects of the EAR, then each element would be considered separately. Any concerns would then be addressed. After all corrections to the EAR were made, at 5:01 P.M. on the meeting of April 9, 1996, there would be the first reading of the Ordinance for the adoption of the plan. On April 23, at 5:01 P.M. there would be a second reading of the Ordinance with instructions for transmittal to the State. Mr. Moore pointed out that the potable water issue was one of the significant areas of concern during the original negotiations with the State regarding the first Comprehensive Plan. Mr. Brisson would go into detail regarding this, and significant strides had been made in that area towards the goal imposed by the State in 1989.

Mrs. Smith asked Mr. Moore if he had taken into account the fact that West Palm Beach had used the figure of 3% reduction, but the Town had actually reduced water usage 15.1%?

Mr. Moore replied affirmatively. Staff research had indicated that the water reduction percentage was significantly more than the percentage that West Palm Beach had allocated. It turned out that West Palm Beach was using the amount of water pumping, not taking into consideration the loss from pipes on their side and on the side of the Town. The agreement and usage of water in the Town had been based on consumption, which would be calculated from the water meters in the Town. When the correct calculations were used, the 15.1% figure had been the result.

Mrs. Smith said that if the West Palm Beach water system was losing water, it was not the problem of the Town.

Mr. Bill Brisson, President of Adley, Brisson, Engman, Consulting Planners to the Town of Palm Beach, addressed the Town Council, stating that the purpose and intent of the Evaluation and Appraisal Report (EAR) was: to update the base data to identify any significant changes that had occurred since the last plan was adopted; to look at the policy and objectives of the Plan in relationship to what had been achieved; and to identify any needed changes for the upcoming Plan update. It was very important to note that the current EAR would not include, and was not intended to include, specific changes to the Comprehensive Plan. It was basically intended to identify the areas of change resulting from the analysis, and the direction the changes were expected to make.

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Mr. Brisson explained there were 8 Comprehensive Plan elements, and each of these was addressed according to the 7 required subject areas of the EAR. These areas included the summary of the existing Plan at the time it was adopted, what the conditions were now, and a comparison of the goals, objectives, and policies with all of the achievements undertaken in the last 5 years. Any problems and opportunities that may exist were then identified, and in many areas there were no particular problems or opportunities. Then the Plan was checked for consistency with the changed regulations that were now in place. Both the State and the Region had new plans with which the Town must be consistent. There had been legislative changes, (Chapter 163, and Rule 9J5) and the Town plan was supposed to be consistent with them. Another requirement was identification of the actions needed to be incorporated in the new plan in order to address any of the issues identified during the process, as well as the identification of the actual types of changes (the areas where the changes need to be made) in the plan.

Mr. Brisson identified the first of the 8 Comprehensive Plan elements--the future land use element, starting on I-1 of the EAR. He summarized that since the Town was nearly built out, there had been no major changes since the adoption of the original plan. Identification of minor changes relative to the Town now having a Preservation Plan had been made, which would need to be incorporated into the Historic Preservation Section of the Coastal Management element. There would need to be a minor revision due to a scrivener's error on the Future Land Use Map, and the Recreational Map would need to be changed to reflect recent changes in the Mar-A-Lago Club, which changed the land use from residential to private group use, as well as the Palm Beach Academy being subdivided and becoming residential, as opposed to private group use.

In response to the inquiry of Mr. McLendon regarding the term "LOS", Mr. Brisson explained that it meant "level of service", and that there were various public facilities and services provided by the Town, (usually water, traffic, recreation), and the level of service (LOS) was that level that the Town intended to provide and was planning for over the coming planning period. It would provide for the movement of traffic through the Town at a certain LOS, allowing the cars to move through at an appropriate pace and not overcrowd the roads. There were various levels of service from A-F. The water LOS would be how many gallons of water per person, per day, that the Town was prepared to provide to its residents, which would be the level of consumption.

Mr. Brisson said that there had not been any significant changes relative to future land use, and if there were any questions regarding this he would answer them.

Mr. Moore inserted the comment that Gene Engman of Adley, Brisson, and Engman was present, and had done a great deal of work putting the EAR together. Mr. Timothy Frank, of the Building Department, also had done a great deal of work, as well as staff members Peter Elwell, Russ Bitzer, Jim Bowser, and Al Dusey.

Mrs. Smith, referring to the paragraph under "Future Land Use", asked why there was a mention of "PUD" and mixed use, if it was not the intent of the Town to have a new category of PUD?

Mr. Brisson responded that there was a reference in the legislation saying that the Town should consider using mixed use PUDs.

Mrs. Smith replied that, as she understood it, the Town had elected not to go into the fourth category PUD.

Mr. Moore stated that there were three PUDs` currently in the Town (Tres Vidas Town Houses, Breakers Hotel, and Sloans Curve). Mar-A-Lago elected not to be a PUD. He explained that even though there was no fourth category (commercial/residential) legislation required that the category be addressed. If it was decided there was no desire to create a fourth PUD category, it would be stricken from the plan.

Mr. Brisson referred to the traffic circulation element, which started on II, p.1, that most of the objectives, goals and policies had been implemented, but there had been a few necessary changes identified--the most important of those related to the level of service acceptable on the roadways in the Town. The first suggestion was that the capacities and LOS used by the Department of Transportation (DOT) be adopted. Additionally, a suggestion was that the peak season be used for measuring the traffic on a roadway, rather than the 1989 method of using peak season/peak day. The DOT typically used peak season, which was a more reasonable number for capacity analysis.

Mrs. Smith asked how the impact of possible development in West Palm Beach on the North Bridge would be included in the report?

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Mr. Brisson replied that under Item vi of Section II, p. xx, it was stated that one of the needed actions regarding the traffic use would be to request the City of West Palm Beach to quantify the potential impacts of its Downtown Master Plan on the roadways of the Town.

Mr. Moore stated that Mr. Frank would address the traffic element.

Mr. Frank stated that he had been in constant contact with Frederic R. Harris, the Town Traffic Consultant, and Mr. Jeffrey Widener, the Professional Planner for the City of West Palm Beach regarding the City of West Palm Beach Traffic Plan. The analysis had indicated that the traffic numbers prepared by the City of West Palm Beach were insufficient; the data wanted had not been provided by the City of West Palm Beach (which was the potential impact of traffic on an east/west route direction). He indicated that the study was insufficient, and would be written in report form in the objections of the Town to the State.

Mrs. Smith asked how this would be covered specifically in the EAR?

Mr. Brisson replied that the purpose of the EAR was to identify areas needing changes, and statements would not specify exactly what should be included in the plan, nor what could be taken to the City of West Palm Beach in this regard.

Mrs. Smith pointed out that a request had already been made for the City of West Palm Beach to quantify.

Mr. Brisson explained the housing element, beginning on III, p.1, stating that there had been no significant changes in objectives or policies of the Town's plan, or any of the conditions of housing in the Town since the plan was adopted in 1989. The most significant change had been the population estimate. The University of Florida grossly overestimated the population of the Town in 1989, which was considerably higher than the 1990 census. These figures had been adjusted to indicate a much lower housing need, and a much lower need for any low-income housing.

Mrs. Smith asked how the State accounted for the 30-40,000 visitors per year to the Town?

Mr. Brisson replied that the seasonal population was adjusted.

Mrs. Smith said that the figures did not include several of the new hotels.

Mr. Brisson responded that the population had been estimated based on full occupancy of the Town, which was approximately 22,000.

Mr. Wyett stated that he did not agree with that number, as in November there was a sharp increase in traffic.

Mr. Brisson explained that figure included only people who were staying overnight in the Town. It did not include any people visiting during the course of the day.

Mr. Wyett said that he was speaking of residential neighborhoods, where homes and apartments were vacant between April/May and October.

Mr. Moore confirmed that the base figure used was from the 1990 census.

Mr. Brisson reported that according to the 1990 census, the population was 9,814, which was the base figure used. In making estimates of the population it was assumed that every home and every hotel unit in the Town was occupied at the peak time. That figure was 22,000. It had been looked at in another way using a multiplier effect that could be used, resulting in a very similar figure. Basically, that was all that could physically fit on the Island. He said that he would not be surprised that the numbers might be a little higher, but he had no way of proving that.

Mr. Wyett asked if it would be worthwhile pursuing?

Mr. Moore remarked that he had a difficult time accepting the 9,814 figure. He asked how many people per dwelling unit were used?

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Mr. Brisson replied that 1.9 was used.

Mrs. Smith asked why the figure would be under 2?

Mr. Brisson replied that the census figure was used to calculate the number of people per dwelling unit.

Mr. Moore stated that there was always a difficult time establishing the population. He believed the base figure was way off as to the actual number of people. One problem was that some residents were not year round residents, and if they were not here in April would not be included in the census.

Mr. Wyett expressed concern regarding water. The report indicated residents use 360 gallons per capita.

Mr. Moore replied that there were a number of reasons for the high figure per capita in water use. The case had been argued in the 1989 plan, and the State refused to use any other base figure.

Mr. Brisson stated that the only way that an acceptable figure could be created would be to develop a methodology, which would probably be surveying. If it could be proven that the numbers were higher, the State would have to accept them.

Referring to the water, Mr. Wyett asked if the per capita figure or the reduction was more important?

Mr. Moore replied that it was the volume of water that was used. From a staff standpoint, it was known that the figures were incorrect for the actual bodies that were in the Town, but extreme efforts had been made to change them, which were futile. Therefore, the volume was the test, rather than the individual, because it was maintained that those figures were flawed.

Mr. McLendon asked if there was any other reason that the population figures would carry importance?

Mr. Frank responded that generally there were other reasons why a higher population figure would be favorable. A number of communities object to the census figures. He remarked that he had compared the 1990 census dwelling unit count with the Town's existing Land Use Map and had found an error in the first block he had looked at, however, in further comparison, he had found no other errors. He stated that essentially the census had the number of dwelling units correct, but the number of persons per household was where there was an issue. With regard to water, the same number of dwelling units was used, and that was why it looked like too much water per capita was being used.

Mr. Moore explained that the greater the population, the greater the entitlement to a greater share of revenue from the State of Florida.

Mr. Doney remarked that was only one of four criteria for State revenue sharing.

Mr. McLendon asked if there had been a survey done?

Mr. Frank replied that the problem with a survey was that it could not be a random sample, but would have to include 100% of the residents.

Mr. Brisson addressed the affordable housing issue, and stated that on-site quarters for domestic and maintenance help had been provided in the Town, which essentially accounted for the major portion of housing for moderate incomes.

Mr. Brisson referred to the Pubic Utilities element--sanitary sewer, solid waste, drainage, and potable water. He stated that the Town had not met its level of service for sanitary sewer flows, and it was suggested that the LOS be amended. In several instances, in the Lake Worth line, the flows had exceeded that allowed. That issue could be recognized by amending the LOS to modify it slightly.

Mr. Jim Bowser, Town Engineer, stated that there was no explanation why there were several instances of flows exceeding allowed rates. The flows did go up when there was a large amount of rain, and in general he did not see a problem with capacities, and believed the Town was well below allocations. He did not foresee a problem

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with the Town needing more capacity.

Mrs. Smith asked who said that the Town was below standard?

Mr. Brisson replied that the Lake Worth line was by contract with the City of Lake Worth.

Mr. Bowser established that was not what was being asked--it was being asked who set the level of service establishing 142 gallons per person per day?

Mr. Brisson responded that those had been set based on the expected flows, and those calculations had been made by the planners for the Town itself.

Mrs. Smith referred to the bridges in the Town, and asked how they were protected as they were considered State landmarks?

Mr. Frank explained that portions of the bridges and the accompanying vistas had been landmarked under local ordinance, which was certified by the State. They were *not* State landmarks. On Royal Poinciana Way, landmarking went to the Post Office; on Royal Palm Way it went to the ocean; on Southern Blvd. Bridge it went to the traffic circle.

Mrs. Smith asked where that information was located in the EAR?

Mr. Brisson replied III-XVIII was the location of that information.

Mrs. Smith referred to pg. 329, under Policy 6-1, the demolition of landmarked buildings wherein it stated "this would go before the Architectural Commission or the Landmarks Preservation Commission". She stated that it was her understanding that the demolition permits for landmarked buildings would come before the Town Council.

Mr. Moore specified that landmarking would first be done by the Landmarks Commission, then be ratified by the Town Council.

Mrs. Smith explained that discussion had been held that there might not be ratification at Landmarks, in case that was taken as approval. She noted that this had been discussed during the Kennedy hearings, and she was not sure that it was clear.

Mr. Frank stated that Policy 6-1, which Mrs. Smith was reading from was the existing Comprehensive Plan from 1989, and evaluation was being done as to whether or not the objectives of that plan had been reached. Any changes incurred since then would not be part of that evaluation. The changes noted by Mrs. Smith would be incorporated in the new plan.

Mr. Brisson referred to the next item--the Solid Waste Section, under IV-XVIII, and stated that the Town continued to meet its level of service for garbage and had sufficient capacity for the planning period. The level of service for vegetative trash had not been met, and that level of service could probably be deleted from the plan. Experience had shown that there was more flexibility in setting some of the levels. There was sufficient capacity available for vegetative trash during the planning period. Because of new legislation the Town would need to add a new section for addressing "Recycling" in the Comprehensive Plan.

Mr. Moore pointed out that for ease in identifying the new plan, it would be referred to as the '97 plan versus the EAR.

In response to Mr. Wyett, Mr. Moore responded that it was mandated that next year the Breakers Hotel come to the Zoning Commission and Town Council to discuss development deadlines.

Mr. Brisson addressed the Drainage element. He noted that there had been no major changes in drainage in the Town, and the level of service continued to be met. Policy 7.3 had been identified as needing supplementation to more clearly address water quality issues.

Mr. McLendon asked if there were pressures from the State or environmental groups regarding quality of storm

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water?

Mr. Bowser responded that there was a program called the National Pollutant Discharge Elimination System, which was an Environmental Protection Agency (EPA) mandate that the State Department of Environmental Protection (DEP) would be taking over. He remarked that there would be some changes and increases, but thought that the Town had a very good start on the issue.

Mr. Brisson addressed the Potable Water Element, summarizing that the Town had not been able to maintain the level of service that was set under the 1990 plan, through negotiation with the Department of Community Affairs. The water conservation efforts had been somewhat successful, resulting in a 15% decline per capita usage, with the goal being 30%. It was obvious that other action would have to be taken, or raise the level of service for potable water.

Mr. Wyett asked if the Town would be in full compliance by putting in a non-potable system?

Mr. Brisson replied that he did not know for sure, but would expect that would be true.

Mr. Wyett asked if it would help if an every other day watering system was implemented?

Mr. Brisson agreed that would make a significant change.

Mr. Moore established that the every other day watering would have a huge impact.

Mr. Brisson continued with the next element--the Coastal Management and the Conservation element, and stated that there had not been any major changes, however a few changes must be made to reflect the Preservation Plan of the Town, and it was noted that the Town may wish to prepare a separate Historic Preservation element, since that was a major aspect of the interest of the Town. This could be done using the optional general guidelines promulgated by the State. He noted that statements to address hazardous waste management must be included.

Mr. McLendon asked if there was any way to show the location of planning areas on the map?

Mr. Brisson responded that a small map showing the areas was included in the Comprehensive Plan. He noted that a map of the planning areas should have been included for information, and it would be added.

Mrs. Smith referred to Policy 5.3, wherein it stated "the Town shall continue to request that the Port of Palm Beach be a local sponsor of Section 11 of the Sand Transfer Plant Project", stating that the County would also be asked to join in requesting the Port for funding for the Sand Transfer Plant.

Mr. Brisson agreed that would be included.

Mrs. Smith referred to Policy 5.4, wherein it stated "Palm Beach County staff is recommending that the County Commission provide 12.5% of the funding for the Mid-Town Beach Project", stating that she had heard that the figure was higher. She asked where the 12.5% figure had come from?

Mr. Bowser replied that normally the State would pay 75% and leave 25% to the locals, and the County was willing to split that 25% into a 50/50 portion, which was how the 12.5% figure had come about.

Mrs. Smith referred to Policy 8.3, and asked whether the new legislation would supersede the Town's authority on the trimming of the mangroves?

Mr. Moore replied that the ordinance was in effect and in place, and until such time that a challenge was presented the ordinance would prevail.

Mrs. Smith suggested that the phrase "this is allowed by the Town" was rather open ended, and recommended "this is strictly enforced by the Town."

Mr. Moore said that the language could be changed to say "the Town enforces its Shoreline Ordinance."

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Mrs. Smith referred to page 541 wherein it was stated "no policies concerning cooperation between adjacent local governments over unique vegetational communities located in more than one jurisdiction are included, as no such situations exist in the Town", and asked Mr. Dusey about the spoil islands and projects being worked on with the County?

Mr. Dusey responded that those were owned by the Town.

Mrs. Smith said that the Town was working with them, and she considered that cooperation.

Mr. Brisson explained that was referring to vegetational communities that were located in two jurisdictions, covering both boundaries. The spoil islands were within the Town entirely, so would not fit within the category.

Mrs. Smith referred to page 560, wherein it stated "the wetlands and natural functions of wetlands shall be protected and conserved. Future land uses are incompatible with the protection...", and questioned if the wording covered the mangroves also?

Mr. Dusey replied that the mangroves were certainly part of the wetlands, but he was not sure of the intent of the section.

Mr. Moore explained that a wetland did not have to be on the coast, and if it qualified under the State definition for wetland it would be protected.

Mr. Brisson continued with the Recreation element--there had been some minor changes to the facilities and the lands in the Town's recreational base, but the level of service that was set in the 1989 plan remained valid, and there were no potential amendments or changes expected.

Mr. Shaw asked why the Lake Worth property was listed in the Inventory of Recreation Open Spaces?

Mr. Gene Engman, of Adley, Brisson and Engman, responded that the Lake Worth property was a recreational facility and would be used in its entirety.

Mr. Wyett asked the requirement for recreational facilities?

Mr. Engman responded that there was no set requirement. The Town was using 10 acres per 1,000, which was a general planning standard commonly used throughout Florida.

Mrs. Smith asked if private golf courses were counted as recreational facilities?

Mr. Frank replied that private clubs were counted at a 50% level.

Mr. Brisson addressed the Inter-Governmental Coordination item--this item was in total flux at this point, as the State had promulgated new rules, regulations, and requirements for this element, then had withdrawn them. The State was now in the process of redefining the new regulations. When the regulations were implemented, expectations were that they would be very detailed, as well as better handling future situations similar to the Downtown Master Plan of the City of West Palm Beach.

Mr. Brisson addressed the Capital Improvements element, dealing with the Town's funding of various actions identified in the 1989 Comprehensive Plan. The major component in this aspect of the plan was to recognize that wherever proposals were made to change the levels of service, it would have to be reflected in the Capital Improvements element also.

Mrs. Smith asked the meaning of Policy 2.2, wherein a reference was made to meeting with the School Board as a needed action to address the issues?

Mr. Engman explained that concerned the Recreation Department of the Town, and joint use of the schools. Apparently the Palm Beach County School Board was not in a position, until just recently, to enter into interlocal agreements for use of school facilities. Therefore, the Town Recreation Department could now work some sort of interlocal agreement to utilize the facilities of the School Board.

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Continuing with the Capital Improvement element, Mr. Brisson stated there were no proposed changes other than those changes the Town made in levels of service in other previously discussed elements, which would be reflected in the Capital Improvement element of the Comprehensive Plan.

Mr. Brisson asked if there were any further questions on the population estimates or projections?

Mrs. Smith questioned the proposed funding requirements for the Capital Improvement Program, and asked if money had actually been spent on Loftin Street?

Mr. Dusey replied affirmatively.

Mr. Moore commented that the figures had come from Mrs. Crozier, who was not present.

Mr. Bowser remarked that *everything* on the two tables being referred to (VIII, pages 3 & 4) had not been done.

Mr. Dusey explained that Loftin items had been completed, but that there were other items within the table that had not been done.

Mr. Bowser stated that the figures would be looked at again.

Mr. Brisson addressed the Monetary and Updating and Evaluation Procedures--the EAR had been processed under these procedures.

In response to Mr. Shaw's inquiry Mr. Bowser explained that the Capital Improvement Plan was amended on a year by year basis, and that was why some of the items had been done and some had not.

Mr. Moore stated that if an item was identified to be done, it could not be amended out of the Capital Improvement Plan--therefore, there were certain items that must be done or reported to the State why they had not been done.

Mr. Brisson explained that the Capital Improvements element of the Comprehensive Plan only dealt with those capital improvements that were necessary to maintain level of service. Other than that, the rest of the Capital Improvement Program was not adopted as part of the Comprehensive Plan itself.

Mr. Brisson referred to the Monitoring, Updating, and Evaluation Procedures--these were the procedures followed for the public hearings and to update and evaluate the 1989 Plan.

Mr. Moore explained that this was the draft of the EAR, which would go to the State for approval. At the April 9, 1996 meeting the first reading of the ordinance would take place, and the second reading would occur at the April 23, 1996 meeting.

Mr. Wyett referred to Section X.2 wording which said that "the Town has no reason to suspect otherwise" and suggested that it was not agreeable.

Mr. Moore recommended that the language should be dropped, with the whole sentence being removed.

Mr. Wyett pointed out that the seasonally vacant number was phenomenal, and the vacant for sale or rent number was also high.

Mr. Moore responded that came from the census data.

Mr. Brisson explained that "vacant" meant that someone had listed a primary residence in New York, for example, and the residence in Palm Beach would show up as a vacant unit. That was why the vacant unit number was so high.

Mr. Moore responded that was correct; that it had been checked with the State.

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Mr. Shaw asked for an explanation of the figures on "population", "population per household", and "all housing units".

Mr. Brisson explained that the population per housing unit was based on occupied dwelling units.

Mr. Shaw made a motion to authorize staff to proceed to the final EAR draft; seconded by Mr. Wyett. On roll call, the motion carried unanimously.

III. ANY OTHER ITEMS

There were none.

IV. ADJOURNMENT

The meeting was adjourned at 7:00 P.M.

Mary A. Pollitt
Town Clerk