

TOWN OF PALM BEACH

Office of The Town Clerk

MINUTES FROM THE SPECIAL TOWN COUNCIL MEETING REGARDING ZONING HELD ON FEBRUARY 4, 2002

I. CALL TO ORDER AND ROLL CALL

President Jack McDonald called the meeting to order at 9:30 a.m. On roll call, the following Elected Officials were found to be in attendance: Mayor Lesly Smith; President Jack McDonald; President Pro-Tem Sam McLendon; Councilman William Brooks; Councilman Norman Goldblum; and Councilman Allen Wyett.

Also attending for all or part of the meeting were: Town Manager Peter Elwell; Town Attorney John Randolph; Director of Planning, Zoning and Building Robert Moore; Assistant Director of Planning, Zoning and Building Veronica Close; Zoning Administrator Paul Castro; Planning Administrator Tim Frank; and Town Clerk Mary Pollitt.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Town Clerk Pollitt. The pledge of allegiance was led by President McDonald.

III. PROOF OF PUBLICATION

Town Clerk Pollitt verified proof of publication was received.

IV. APPROVAL OF AGENDA

President Pro-Tem McLendon made a motion to approve the agenda. The motion was seconded by Councilman Brooks and carried 5-0 on roll call.

V. PROCEDURES FOR COMMENTS BY GENERAL PUBLIC

President McDonald said the general public may comment on any of the ordinances to be read at the meeting and requested all interested parties come to the front of the chambers and be prepared to speak when addressed.

MINUTES FROM THE SPECIAL TOWN COUNCIL MEETING HELD ON 2/4/2002

VI. FIRST READING OF ORDINANCE NO. 1-02, ZONING AMENDMENTS, MODIFICATIONS AND ADDITIONS

Town Attorney Randolph read Ordinance Number 1-02 by title:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 134, ZONING, OF THE CODE OF ORDINANCES AS FOLLOWS: SECTION 134-1473, HEIGHT, WIDTH AND LENGTH LIMIT FOR PROPERTY ADJACENT TO PROPERTIES IN DISTRICTS OTHER THAN R-B BY PROVIDING A SPECIAL EXCEPTION FOR INCREASING THE SIZE OF ALLOWABLE BEACH CABANAS IN THE BEACH AREA ZONING DISTRICT FOR LOTS TWICE THE MINIMUM ALLOWED FOR SAID DISTRICT; SECTION 134-945, SPECIAL EXCEPTION USES, TO ALLOW EXISTING HOTELS IN THE R-C ZONING DISTRICT TO BE PERMITTED BY SPECIAL EXCEPTION APPROVAL; SECTION 134-1609, MULTILEVEL AND SPLIT LEVEL STRUCTURES TO CLARIFY THE NUMBER OF STORIES ALLOWED; SECTIONS 134-2, DEFINITIONS AND RULES OF CONSTRUCTION, BY CLARIFYING THE DEFINITIONS OF BASEMENT AND STORY, AND SECTION 134-1608, BASEMENTS, ALLOWING MORE FLEXIBILITY IN THE USE OF A BASEMENT; SECTION 134-2, DEFINITIONS AND RULES OF CONSTRUCTION, AMENDING THE DEFINITION OF A SUB-BASEMENT; SECTIONS 134-791, 134-841 AND 134-891, ACCESSORY STRUCTURES, PROVIDING CONDITIONS FOR STAFF APPROVAL OF SECOND KITCHENS; SECTIONS 134-843 AND 134-893, LOT, YARD AND AREA REQUIREMENTS-GENERALLY, BY DELETING (C) REQUIRING SPECIAL EXCEPTION APPROVAL FOR LARGER LOTS IN THE R-A AND R-B ZONING DISTRICTS; SECTION 134-843 AND 134-893, LOT, YARD AND AREA REQUIREMENTS-GENERALLY, BY ADDING A PROVISION FOR GREATER SETBACK ON LARGER LOTS IN THE R-A AND R-B DISTRICTS; SECTION 134-1107, PERMITTED USES, AND SECTION 134-1109, SPECIAL EXCEPTION USES, PROVIDING CONDITIONS FOR STAFF APPROVAL OF OFFICES ON THE FIRST FLOOR IN THE C-TS DISTRICT AND SECTION 134-1157, PERMITTED USES AND 134-1159, SPECIAL EXCEPTION USES, PROVIDING FOR CONDITIONS FOR STAFF APPROVAL OF OFFICES ON THE FIRST FLOOR IN THE C-WA DISTRICT; SECTION 134-2440, HEIGHT OF SIGNS, PROVIDING

MINUTES FROM THE SPECIAL TOWN COUNCIL MEETING HELD ON 2/4/2002

CONDITIONS FOR STAFF APPROVAL OF WALL SIGNS ABOVE THE MAXIMUM HEIGHT; SECTION 134-172, HEARING PROCEDURE, BY INCREASING THE NOTICE TIME AND DISTANCE REQUIREMENT OF PROPOSED SPECIAL EXCEPTIONS AND/OR VARIANCES; SECTION 134-328, REVIEW BY BUILDING OFFICIAL, NOTICE OF HEARING, BY INCREASING THE DISTANCE REQUIREMENT FOR NOTICE AND REQUIRING NOTICE FOR SITE PLAN REVIEW; SECTION 134-793, 134-843, 134-893, 134-948, 134-1004, AND 134-1059, LANDSCAPE OPEN SPACE, BY ELIMINATING THE LANDSCAPE OPEN SPACE CREDIT FOR GRASS-CRETE TYPE OF MATERIAL; SECTIONS 134-948, 134-1004 AND 134-1059, LOT, YARD AND AREA REQUIREMENTS-GENERALLY, BY DECREASING THE MAXIMUM LOT COVERAGE AND INCREASING THE MINIMUM LANDSCAPE OPEN SPACE FOR SINGLE-FAMILY AND TWO-FAMILY RESIDENTIAL DEVELOPMENT IN CERTAIN DISTRICTS; SECTIONS 134-943, 134-998 AND 134-1053, ACCESSORY USES, TO ALLOW THE TOWN MANAGER TO ISSUE A PERMIT FOR CHARITABLE SOLICITATIONS; SECTION 134-1728, AIR CONDITIONING AND POOL EQUIPMENT, BY FURTHER CLARIFYING AND REGULATING THE PLACEMENT OF AIR CONDITIONING UNITS AND POOL HEATING EQUIPMENT ON A PROPERTY, BY AMENDING SECTION 134-1729, GENERATORS AND POOL EQUIPMENT, BY RESTRICTING THE PLACEMENT OF GENERATORS AND REGULATING THE PLACEMENT OF SWIMMING POOL EQUIPMENT; SECTION 134-1670, RETAINING WALLS, TO CLARIFY THE MEASUREMENT OF RETAINING WALLS AND SAID WALLS IN COMBINATION WITH FENCES AND WALLS; SECTION 134-1671, RESTRICTIONS, BY PROVIDING CONDITIONS TO ALLOW FENCES, WALLS AND LANDSCAPE MATERIAL ON THE BACK 2.5 FEET OF A PROPERTY BY THE TOWN ENGINEER; PROVIDING FOR A PENALTY FOR A VIOLATION HEREOF; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREOF; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Tom Scott, Boca Raton Attorney representing the neighbors to the north and south of the James Clark residence at 1500 S. Ocean Boulevard, addressed the Mayor and Town Council. Mr. Scott said he wished to address Section 1 of the ordinance being considered, changes to the beach area. He said he wished to reiterate some of the objections that were in place at the January 3rd meeting when he presented them to the Mayor and Town Council; namely that allowing individual people who have an

MINUTES FROM THE SPECIAL TOWN COUNCIL MEETING HELD ON 2/4/2002

ad hoc issue to combine that issue with the yearly zoning change, and that sends an improper, public message. Mr. Scott said this provides opportunities for others, on a yearly basis, to do the same thing.

Mr. Scott added this request invited abuse of the other beach area restrictions, i.e. parking, sleeping quarters, and kitchens. He said he had spoken with Doyle Rogers, Attorney for the Clarks, and his clients would not object provided that they can review the site plan before submission to ensure all the restrictions are being adhered to. Mr. Scott said he would withdraw his objections with that caveat.

Mayor Smith asked Town Attorney Randolph how the concerns of the neighbors would be worked in the ordinance?

Mr. Randolph replied the concerns would not be written into the ordinance, and the implication was that an agreement had been reached between two neighbors. The Town will not be involved.

President Pro-Tem McLendon said he had reservations about the potential elimination of the grass-crete as it had a nice appearance and certainly some precipitation goes through it.

Councilman Wyett said he understood that any Town resident could review site plans or any plans in the Planning, Zoning & Building office.

Responding to a question from Councilman Goldblum regarding grass-crete, Mr. Moore said that although the grass-crete was somewhat pervious, it has not worked that well with the grass not thriving in most areas.

Councilman Goldblum made a motion to approve the first reading of Ordinance No. 1-02. The motion was seconded by Councilman Brooks and carried 5-0 on roll call.

VII. FIRST READING OF ORDINANCE NO. 2-02, RE-ZONING OF LOT 33, BLOCK F, ROYAL PARK ADDITION

Town Attorney Randolph read Ordinance No. 2-02 by title:

AN ORDINANCE BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, FLORIDA, APPROVING AN APPLICATION FOR A ZONING CHANGE FOR .5+/- ACRE PIECE OF REAL PROPERTY LOCATED ON

MINUTES FROM THE SPECIAL TOWN COUNCIL MEETING HELD ON 2/4/2002

THE SOUTH SIDE OF ROYAL PALM WAY, EAST OF SOUTH COUNTY ROAD FROM A DESIGNATION OF C-TS, COMMERCIAL TOWN SERVING, TO C-B, COMMERCIAL ZONING DESIGNATION; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

No one from the general public addressed the Ordinance change.

Councilman Goldblum made a motion to approve the first reading of Ordinance No. 2-02. The motion was seconded by Councilman Brooks and carried 5-0 on roll call.

VIII. FIRST READING OF ORDINANCE NO. 4-02, MODIFYING CHAPTER 2, ADMINISTRATION

Town Attorney Randolph read Ordinance No. 4-02 by title:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 2, ADMINISTRATION, ARTICLE III, OFFICERS AND EMPLOYEES, AT SECTION 2-136, OFFICERS SPECIFIED; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

No comments were made by the general public.

Councilman Brooks made a motion to approve the first reading of Ordinance No. 4-02. Councilman Goldblum seconded the motion. The motion carried 5-0 on roll call.

IX. FIRST READING OF ORDINANCE NO. 5-02, MODIFYING CHAPTER 18, BUILDINGS AND BUILDING REGULATIONS

Town Attorney Randolph read Ordinance No. 5-02 by title:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 18, BUILDINGS AND BUILDING REGULATIONS, OF THE TOWN CODE OF ORDINANCES AT ARTICLE II, ADMINISTRATION;

MINUTES FROM THE SPECIAL TOWN COUNCIL MEETING HELD ON 2/4/2002

RESCINDING ARTICLE IV AND ADOPTING A NEW ARTICLE IV ENTITLED FLORIDA BUILDING CODE 2001, INCLUDING THE FLORIDA BUILDING CODE 2001, THE NATIONAL ELECTRIC CODE 1999 EDITION, THE COASTAL CONSTRUCTION CODE, THE PALM BEACH COUNTYWIDE UNIFORM AMENDMENTS TO THE FLORIDA BUILDING CODE AND THE NATIONAL ELECTRIC CODE; AMENDING ARTICLE V, COASTAL CONSTRUCTION CODE, AT SECTION 18-281, STRUCTURAL REQUIREMENTS FOR MAJOR STRUCTURES; DELETING ARTICLE VI, ELECTRICAL CODE; DELETING ARTICLE VII., PLUMBING CODE; DELETING ARTICLE VIII, GAS CODE; DELETING ARTICLE IX, MECHANICAL CODE; DELETING ARTICLE X, ENERGY EFFICIENCY CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE

Town Manager Elwell advised changes were made to the ordinance; however they were minor changes. He described the changes that included differentiating between the Building Official title and those responsibilities that are the responsibility of the Building Official under the statute related to construction in the Town and those responsibilities that are also addressed, within the ordinance, that are broader and more related to the management of the Planning, Zoning and Building Department.

Mr. Elwell said consistent with Ordinance 4-02, just adopted by the Town Council, housekeeping changes were made in Ordinance 5-02 to differentiate between those two types of responsibilities. The changes were made in the title - the reference to the title in the document.

No members of the public commented on the ordinance.

President Pro-Tem McLendon made a motion to approve the first reading of Ordinance Number 5-02. Councilman Brooks seconded the motion, and the motion carried 5-0 on roll call.

X. FIRST READING OF ORDINANCE NO. 6-02, MODIFYING CHAPTER 46, FIRE PREVENTION AND PROTECTION

Town Attorney Randolph read Ordinance No. 6-02 by title:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM

MINUTES FROM THE SPECIAL TOWN COUNCIL MEETING HELD ON 2/4/2002

BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 46 FIRE PREVENTION AND PROTECTION, AT ARTICLE III FIRE PREVENTION CODE, TO INCLUDE NEW SECTIONS 46-80 AND 46-81; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

There were no comments from the general public.

Councilman Wyett inquired why homes of 10,000 square feet were required to be sprinkled while homes of 9,800 square feet were not? In general, why are private homes required to do this?

Town Manager Elwell responded one of the reasons was the size of the home required additional fire-rescue equipment to be brought in that normally would not be brought in for smaller residences.

Director of Planning, Zoning and Building Robert Moore replied the figure 10,000 square feet was adopted approximately ten years ago by the Fire-Rescue Chief as the size of a structure relative to the fire personnel's ability to fight a fire. Additionally, fire separation is required between two floors or the structure must be fire sprinklered to aid in combating a fire in a structure of that size.

A motion was made by Councilman Brooks to approve the first reading of Ordinance No. 6-02. The motion was seconded by Councilman Goldblum and carried 5-0 on roll call.

XI. ANY OTHER ITEMS

Councilman Brooks questioned Section 134-945 of the Zoning Ordinance and recalled that Councilman Wyett made a motion to not grant a Special Exception but to have the applicant go through the Variance procedure. He said he seconded that motion, although the motion failed on a 3-2 vote. He offered, if the Town Council would be interested, to make a motion to re-hear that issue. He explained his reasoning was a Special Exception contains a lower threshold other than that contained in a Variance request, and the Variance procedure allows the Town more protection since it has a higher threshold than the Special Exception. He said his reasoning would be more advantageous to the Town.

Town Attorney Randolph advised a motion to re-consider the motion would have to be made.

Councilman Wyett made a motion to re-consider the first reading of Ordinance No. 1-

MINUTES FROM THE SPECIAL TOWN COUNCIL MEETING HELD ON 2/4/2002

02. The motion was seconded by Councilman Brooks.

Mr. Moore noted Section 134-945 referred to the Plaza Inn.

President McDonald said his concern was that no one was present to address this issue who represented the parties involved.

Mr. Randolph said he did not think anyone was present, and Ajit Asrani, Plaza Hotel owner, was represented by Attorney Ron Kolins.

Mayor Smith suggested the motion could be to re-consider and at the next Zoning Hearing notify the interested parties to be present.

Mr. Wyett said he concurred 100% with Mr. Brooks. He added that Attorney Kolins made an eloquent presentation, but did not mention that, under a Special Exception, if all 12 or 13 subjective criteria are met and the Town Council rejects the Special Exception, the case may then be presented directly to the courts, and a judge can decide at his/her discretion if the Town is right or wrong; however, if a Variance procedure is required, the Town has greater control over the decision.

Mr. Wyett said he thought the Plaza Inn's application was excessive, and they could have achieved what they wanted without going through the zoning application.

Mr. Randolph said the Town Council cannot discuss the issue until a vote is taken to re-hear the motion. He said that a motion to re-consider at this meeting and because of arguments made at this meeting resulting in the first reading of the ordinance not passing, a first reading would have to be at the next meeting with a second reading to be heard at a following meeting. If the first reading stands with the stated concerns of the Town Council and those concerns are passed on to the interested parties, Mr. Randolph said the interested parties would have an opportunity to come to the next meeting where the issue could be discussed before a vote is taken on a second reading. He suggested that is the way it could be handled.

Councilman Wyett withdrew his motion and requested the interested parties be formally notified of the opposition at the second reading.

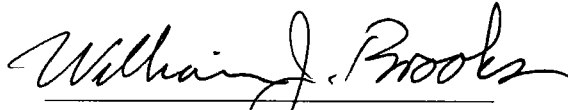
Mr. Moore said he would notify the applicant and his attorney.

Councilman Brooks withdrew his second to the motion.

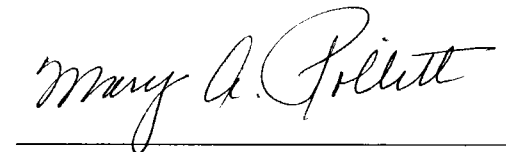
MINUTES FROM THE SPECIAL TOWN COUNCIL MEETING HELD ON 2/4/2002

XII. ADJOURNMENT

The meeting was adjourned at 9:55 a. m.



William J. Brooks, President



Mary A. Pollitt, Town Clerk