TOWN OF PALM BEACH

Office of The Town Clerk

MINUTES OF THE REGULAR TOWN COUNCIL MEETING HELD ON TUESDAY, JANUARY 12, 2010

I. CALL TO ORDER AND ROLL CALL

The Regular Town Council Meeting was called to order on Tuesday, January 12, 2010, at 9:30 a.m., in the Emergency Operations Center, 355 South County Road, Palm Beach. On roll call, all of the 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. PRESENTATIONS

A. Preservation Foundation Donation for Town Hall Renovation. [John Mashek, Chairman of The Preservation Foundation of Palm Beach]

Mr. John Mashek, Chairman of the Preservation Foundation presented the Town with a check for $200,000 for the Town Hall restoration project. He also commended the quality of work being done. It looks terrific and they are happy to be a part of the process.

IV. COMMENTS OF MAYOR JACK McDONALD

The Mayor indicated that he had three comments and wanted to start with the Police Ball. He congratulated the organizers of the Policeman's Ball Police on their great success last Saturday. The ball was a sell-out with 514 tickets sold and raised over $850,000 for the Police Foundation. The foundation provided twenty- two scholarships last year and in addition, the foundation supports Palm Beach Crime Watch. The ball also provides the elected officials the opportunity to meet casually with state and county elected officials. He thanked and appreciated the attendance by Council Members Coniglio, Kleid and Diamond, along with the attendance of many public safety personnel made possible through a donation by William Koch and Michael Falk. He also acknowledged the Dan Borislow Foundation for its $75,000 contribution to fund the purchase of upgraded weapons. Significant contributions by Mr. Donald Trump, the Charles Evans Foundation and the William Koch Foundation for his funding of graduate studies. The overwhelming support of the residents to that special event benefits the Town at no expense to the Town.

Secondly, the Beach Club had requested a crosswalk from their parking lot to the facilities on the west side of North County Road. Mayor McDonald provided their letter and drawing to the Town Manager so that the staff can provide for the necessary technical review of the request. He mentioned it to the Town Council and the public, so that the public will know that this matter is under review and that a crosswalk may be provided at that location in the future.

Thirdly, Mayor McDonald spoke of creating a Town Council Task Force. The Town Council candidates have with their first public comments highlighted the need for the Town Council to address the issue of reducing the County budget. The Town Council has done a good job in controlling 17% of the residents' tax bills but has taken little action to control the remaining 83% percent. Mayor McDonald continued that the Town Council must initiate action now. For every month that goes by, the opportunity to influence the next County budget diminishes. Therefore he recommended that the Town Council appoint a County Budget Review Taskforce to be chaired by Council Member Wildrick to study and formulate a plan to influence reductions to the County budget.

V. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

Council President Pro Tem Coniglio stated that she wished to spend a few minutes clarifying misstatements concerning inlet and sand management beginning with the election sound bites this past week, and culminating with the opinion expressed in Sunday's *Palm Beach Daily News*. It remained her conviction that it was time for the Town of Palm Beach to play hardball with the USACOE for sand. In the last decade, dredged inlet sand has only been placed on the dry beach twice: one episode at the Town's expense and once at the USACOE's expense. She stated that it was an important factor for shoreline stability. However, southward movement of the dry sand is sometimes impeded by uneven topography, found in the north end, coupled by the trapping effect of the jetty. Near shore placement of sand, while not the ideal scenario, was not lost out to sea. She continued that its placement in a seventeen foot depth is the seaward limit but unfortunately needs large waves to move it onto the beach.

Coastal engineers, environmentalists, DEP, USACOE, the Town's own Shore Protection Board and the residents undeniably agree that the sand transfer plant and its operational improvements are the lynchpin for sand management by imitating the natural littoral drift. The major objection to the USACOE agreement, was there linkage of the Phase I sand transfer plant upgrade with the subsequent pipeline extension proposed for Phase II. The agreement was rejected by the full Town Council as they understood the urgency to complete Phase I, and could not wait years for the USACOE to approve Phase II. A USACOE representative did present at the November 13, 2008 Town Council meeting the possibility for on-the- beach disposal of inlet dredged sand. She added that the USACOE presentation was lacking critical information necessary for a deadline decision:

1. The amount of fill.
2. The time frames for the dredging events.
3. Most importantly, the cost.

Council President Pro Tem Coniglio stated that it would be irresponsible and fiscal suicide to sign an agreement that was in essence, a blank check. Recently, the Town has made great strides in discussions with the USACOE, Palm Beach County, and Palm Beach Port to identify and resolve hurdles in the permit and construction process for effective inlet management. She added that it was a "hands on" approach advanced by the Town Council beginning last summer to establish direct communication with the USACOE construction staff: Jason Spinning, USACOE Civil Project Manager and Project Manager Taullamourie of Great Lake Dredge and Dock in Illinois, to modify the January dredging event to allow sand placement on the dry beach at the Town's expense. Furthermore, follow-up directives were authorized at last month's Town Council meeting. The Town Council was endorsing initiatives that require new contracts being drafted by the USACOE to include an incremental cost line item for beach placement alternatives and are pressing them to re-evaluate the possible expansion of the settling basin as a reservoir for additional sand placement. Unfortunately, she continued, there are many players and holding hands with several bureaucracies was tricky at best. They will continue to make every effort to cooperate and progress in the partnerships but cannot compromise the Town's best strategy to protect the lives and properties of the residents.

Council Member Kleid endorsed what Council President Pro Tem Coniglio stated. He felt it was important that they all understand the facts of the situation and what was transpiring, and that the Town does not react to half-truths. Secondly, Council member Kleid endorsed Mayor McDonald's call for a committee to start work almost immediately under the Chairmanship of Council Member Wildrick, if he should accept. He felt that it was important that the Town engage very very quickly with the County, and not come in at the last moment when it was not that productive. Thirdly, he was very disappointed with the weather at the Policeman's Ball, and he directed his attention to the Town Council, who failed to pass an ordinance requiring warm weather.

Council Member Wildrick stated that obviously, due to Sunshine law, the Mayor and Member Kleid had taken him by surprise. He felt very strongly that maybe the Town Council was all a bit off base in the actions towards the County last year. He thought that they would get more flies with honey than with vinegar. He also felt there should be a spirit of cooperation. He knows that the Mayor feels strongly about this because he has spoken on many occasions about this. If the Council were to create the Committee and if he agreed to do it, he would like to talk a little bit about it. He wanted to know why the Mayor thought he should be the Chair. He stated that he would only accept under the basis that he would not be adversarial to the County. He felt the Town would not dramatically get the taxes lowered because they go in and rattle a saber. That would not work. He suggested that the Town work with the County and express the Town's needs and maybe they can assist with some of those, like shore protection, for example.

Council Member Wildrick continued that the County may be able to help and other things such as grants and things of that nature. He addressed Mayor McDonald and stated that he would do the job if he wanted him to, but he wanted to understand how the Mayor saw this, and his attitude would not be hostile, but more of cooperation. He did not feel the Town should secede and did not feel they should go and pound on the table for anything. They should work with them.

Council President Rosow said he would place this item and further discussion under New Business as Item X.B.4.

Council President Rosow stated that he had a couple of comments. He agreed with Council President Pro Tem Coniglio's statements and he has seen the outfall from the sand transfer plant. He said that if you had not seen the outfall, it was pretty amazing. He noted that there was more product coming out of the outfall today than he has ever seen since he has lived in Palm Beach.

Council President Rosow said that the Town is facing serious challenges which require all of the Council to pull the oar together. He agreed to run for office to serve the Town, as all of the Town Council Members have done. He chose to run for office to bring his experience and skill set to bear on the problems the Town was facing. What he did not expect was the divisiveness and attacks which have become more common over the past few years. He continued that this was not the Palm Beach and not really the way Palm Beach is. We must all band together as a team. The Town Council and Mayor are simply the strategists, navigators and helmsman. The guidance and direction ultimately comes from the residents and taxpayers. They work through the residents, and take their direction from the residents. In his role as Council President, he had certain additional responsibilities. In that position, he urgently asked that they all bury grievances, shake hands and come out together swinging to take on the true adversaries: those who continue to impose confiscatory taxes without returning value to the Town; the federal, state and county authorities who stand in the way of beach re-nourishment; those who would expand the Port to the Town's detriment; and those who take advantage of the residents and employees. Of course, we can all disagree on issues, but he urged and take as an example how the Council treats each other on the dais. They debate ferociously, but remain cordial, civil and friendly once the debate is over. Whether they are on the successful or unsuccessful side of the vote, they move on to deal with other pressing issues, and continue to work together. His final thought, was that the top was a fragile place to be. Many, many people wanted to live here. If the Town does not jealously guard and protect what made it so special, then the Town will lose that specialness. If that happened, they will no longer be at the top. The way of life and real estate values all else that places Palm Beach as the top of list of places people would most like to live.

VI. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

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

Richard Halperin, 256 Worth Ave, a resident and father of a six-year-old, recommended not changing the parking. Council President Rosow asked him to speak during that particular item and he agreed to do so.

Isabel Furlaud, 745 Hi Mount Road, congratulated Palm Beach Cats for the wonderful job they were doing and that they were saving the taxpayers over $75,000 a year. Council President Rosow corrected her and informed her it was Island Cats.

Kristen Puhalainen, Member Outreach Director for the League of Cities, 301 N Olive Ave., provided information on community issues. She announced that the newly created Commission on Ethics was accepting applications and resumes from a former elected official to be appointed at their January 27, 2010 meeting. More information was available on their website: www.leagueofcities.org. She added that in February, the associate showcase would be held at Hilton Airport.

Adele Kahn, House of Kahn, 231 Peruvian Ave., was concerned about the parking situation also and will speak at the appropriate time.

VII. APPROVAL OF AGENDA

Item VIII.E.6., RESOLUTION NO. 8-10 was **MOVED** from the Consent Agenda to Item X.A.3.

Item VIII.F.1, Approval of Worth Avenue Association's Request to Implement Zone Parking on Worth Avenue, was **MOVED** from the Consent Agenda to Item X.A.1.a.

Item X.B.4. Creation of County Budget Task Force was **ADDED** to the Agenda.

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

VIII. CONSENT AGENDA

A. MINUTES: DECEMBER 16, 2009 APPROVAL OF THE MINUTES OF THE TOWN COUNCIL MEETING

B. MINUTES: DECEMBER 17, 2009 APPROVAL OF THE MINUTES OF THE TOWN COUNCIL MEETING

C. MINUTES: JANUARY 8, 2010 APPROVAL OF THE MINUTES OF THE SPECIAL TOWN COUNCIL MEETING

D. APPROVAL OF MAJOR MATTERS CONSIDERED BY THE ARCHITECTURAL COMMISSION AT ITS MEETING ON DECEMBER 18, 2009.

E. RESOLUTIONS

1. RESOLUTION NO. 2-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Purchase Order to Mathews Consulting, Inc., for Force Main Design Services Between Sanitary Sewage Pumping Stations A-7 and A-39 for the Town of Palm Beach. [H. Paul Brazil, Director of Public Works]

2. RESOLUTION NO. 3-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Purchase Order to Corzo Castella Carballo Thompson Salman, P.A. for the Tangier Avenue Storm Drainage Design Services for the Town of Palm Beach.[H. Paul Brazil, Director of Public Works]

3. RESOLUTION NO. 4-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Purchase Order to Kimley Horn and Associates for the Laurian Lane Storm Drainage Improvements for the Town of Palm Beach. [H. Paul Brazil, Director of Public Works]

4. RESOLUTION NO. 5-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Purchase Order to Corzo Castella Carballo Thompson Salman, P.A. for the North Lake Way Drainage Improvements Between El Dorado Lane and Plantation Road for the Town of Palm Beach.[H. Paul Brazil, Director of Public Works]

5. RESOLUTION NO. 6-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Assessing a Lien Against the Property at 112 Caribbean Avenue, Palm Beach, Florida 33480, in the Amount of $3,764.86, Together with Interest at Eight Percent Compounded Unless Paid Within Thirty Days after Publication of this Resolution; Providing an Effective Date.[John C. Randolph, Town Attorney]

6. RESOLUTION NO. 8-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Town Manager to Contract with Applied Technology & Management, Inc., for Mid-Town Beach Cumulative Assessment. [H. Paul Brazil, Director of Public Works]

This item was pulled from the Consent Agenda and moved to Item X.A.3.

7. RESOLUTION NO. 9-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Purchase of Four (4) Ford Ranger Pick-up Trucks.[H. Paul Brazil, Director of Public Works]

8. RESOLUTION NO. 10-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving Procurement of D-9 Storm Water Pump Station Pumps, a Fund 307 Project, for the Town of Palm Beach. [H. Paul Brazil, Director of Public Works]

F. Other

1. Approval of Worth Avenue Association's Request to Implement Zone Parking on Worth Avenue. [Thomas G. Bradford, Deputy Town Manager]

This item was pulled from the Consent Agenda and moved to Item A.1.a.

2. RESOLUTION NO. 11-10 Approval of Change Order for the Purchase of a Freightliner M2 Utility Truck and Re-Allocation of Funds for Four (4) Trash Truck Dump Bed Transfers. [H. Paul Brazil, Director of Public Works]

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

IX. BOARD/COMMISSION ANNUAL REPORT

A. Investment Advisory Committee. [Dr. Michael Andrews, Chairman and Jane Struder, Director of Finance]

Dr. Michael Andrews presented the Investment Advisory Committee Annual Report.

There was discussion and questions from the Town Council Members.

Council President Pro Tem Coniglio asked Dr. Andrews about the change from the state investment pool, and if the impending freeze impacted the Town funds. Dr. Andrews responded that fifty million dollars was removed the day before the freeze was implemented. The SBA still owes the Town several hundred thousand dollars. She also asked about the choice of fund managers.

Dr. Andrews said they are watching Prime Buckholtz over the management of the fund. They have had some issues which the committee continues to address, and the fund managers have

been asked to appear at the next meeting in February. Council President Pro Tem Coniglio thanked the committee for their returns last year.

Council Member Kleid thanked Dr. Andrews and the Investment Advisory Committee for the caliber of people on the committee. He noted that the Town would not be able to afford them if they were paid committee members. He applauded their efforts and their diligent work this year.

Council Member Diamond stated that he had the pleasure of attending all of the IAC meetings and learned more about finance from those meetings. He thanked dr. Andrews for a great job. He appreciated the tuition.

Council President Rosow echoed all of the positive comments from the Town Council Members.

Motion to accept the annual report of the Investment Advisory Committee made by Council Member Diamond, and seconded by Council Member Kleid. On roll call, the motion carried unanimously.

X. REGULAR AGENDA

A. Old Business

1. Worth Avenue Improvement Project Maintenance Responsibility. [Thomas G. Bradford, Deputy Town Manager]

Deputy Town Manager Tom Bradford presented the item. He announced that the Worth Avenue Association had agreed to accept responsibility for the maintenance of the project after being directed to meet with the Association to work out details.

Council Member Wildrick commended Deputy Town Manager Bradford for delivering and solving the outstanding problems and supportive of what was done. He did a great job and worked very hard on the project and was supportive of what he had accomplished.

Council Member Kleid stated that he was aware of the amount of hours spent with Attorney Ron Kolins and the Association. He commended everyone involved and stated that there needed to be a facelift on Worth Avenue. The Town Council was in favor of it.

Attorney Ron Kolins, representative of the Worth Avenue Association and the three big shop owners, was introduced by Council President Rosow. Council President Rosow announced that there was a meeting held last week and the clients understand the agreement was that the Town was not responsible for any maintenance and it was an assessment methodology. Attorney Kolins was in agreement with that concept.

Council President Pro Tem Coniglio also very clearly heard that and she described to the community an important aspect of the agreement. The improvements will improve the entire Town. The Association had also agreed to maintain the enhancements, seventy-five percent of the improvements were on Town-owned property. She added that it was phenomenal and after hearing from Mr. Mashek of the Preservation Foundation and their generous donation, the care the Town has been given. She wanted the public to understand that the Town was on receiving end of the magnificent project.

No vote was taken on the item.

a. Approval of Worth Avenue Association's Request to Implement Zone Parking on Worth Avenue. [Thomas G. Bradford, Deputy Town Manager]

This item was heard pulled from the Consent Agenda.

Deputy Town Manager Bradford stated that there was a continuing problem of parking and the proposed solution was zone parking on Worth Avenue. He described the primary problem was some employers and employees using the parking on Worth Avenue. The Police Department confirmed that was the case. He provided a history of the parking and traffic study from 2007.

Deputy Town Manager Bradford recommended an increase in permit placards on the four blocks of Peruvian Avenue. The proposed creation of twenty town issued parking placards to encourage employees to park on Peruvian Avenue and would allow them to park without paying a meter or have limitation of time.

Council Member Diamond stated that his wife, Regine Traulson, has a property contract on Peruvian Avenue and at the advice of the Town Attorney, recused himself from the discussion. Form 8b was completed and filed with the Town Clerk. Council Member Diamond left the dais and the room.

Council President Pro Tem Coniglio asked about signage and samples were distributed to the Town Council Members. She stated that the Town had increased the parking time to two hours in 2007. She was concerned with education process and feels this would be a nightmare. After viewing the signage, she indicated that it would be very confusing and the rest of the Town Council agreed. She added that she had received several calls and with Worth Avenue improvements, there will be a loss of parking spaces. She also was concerned about the Peruvian merchants and their employees would lose their spaces as well.

Council Members Wildrick and Kleid both wanted to hear from the Peruvian Avenue residents and shop owners. Council Members Wildrick felt this was bad PR for the Town and was ill-founded.

Mayor McDonald asked who was pushing implementation of this. Deputy Town Manager Bradford responded that the merchants came to the Town, i.e. John Maus and Stefan Richter. Town Manager Elwell added that they also had received a formal request form the Worth Avenue Association.

The following persons spoke in opposition to the zoned parking:

- Mrs. Adele Kahn, 231 and 235 Peruvian Avenue, provides parking for her employees and residents. She urged Worth Avenue merchants to do the same. She indicated that Peruvian Avenue is not the back door to Worth Avenue.
- Richard Halperin, 256 Worth Avenue, expressed his opposition.
- Mary Webster, 145 Peruvian Avenue, stated that Peruvian Avenue was the red-headed step-child. She added that speeding was also an issue. She suggested fining the merchants if their employees are violating the parking.
- Earl Hollis, 145 Peruvian Avenue, and a resident since 1949, was opposed to any changes.
- Ruby Rinker, 225 Peruvian Ave, agreed with her neighbors. She liked the Town the way it was.
- Gay Cinque, 3 Golfview Road, owner of 319, 321 Peruvian Avenue and other properties also voiced opposition.

Council Member Kleid said he agreed with Council President Rosow when he said Peruvian should not take a back seat to Worth Avenue and he had changed his opinion based on residents' comments from Peruvian Avenue.

Police Chief Kirk Blouin stated there was no solution and the issue had been studied for many years. He indicated that due to competing interests, there was no solution that would please everyone. Chief Blouin added that several years ago, the Town Council adopted the zone parking ordinance.

Council President Rosow suggested that everyone involved, continue to study the problem. He urged the merchants to enforce their employee parking.

2. Bond Issue for Accelerated Capital Improvement Program and Refinancing of Outstanding Town Debt.

a. RESOLUTION NO. 13-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Issuance of Not Exceeding $77,000,000 Town of Palm Beach, Florida Public Improvement Revenue Bonds in One or More Series for the Purpose of Refunding All or a Portion of the Town's Revenue Bonds, Series 2003B (Capital Improvement Project), Public Improvement Revenue Note, Series 2008 and Public Improvement Revenue Note, Series 2009 and Financing or Refinancing All or a Portion of

the Cost of Acquiring, Constructing, Renovating and Equipping Components of its Capital Improvement Plan Relative to Certain Drainage, Sanitary Sewer and Water System Improvements, Street Lighting, Signage and Other Road Improvements, Public Capital Improvements Within the Worth Avenue Commercial District and Capital Improvements to the Par 3 Golf Course; Authorizing and Directing the Town Manager or the Finance Director to "Deem Final" the Preliminary Official Statement Relating to the Bonds for Purposes of Rule 15c2-12 of the Securities and Exchange Commission; Authorizing and Directing the Mayor, Town Council Members, the Town Manager, the Finance Director and Other Proper Officials of the Town to Execute and Deliver Any and All Documents and Instruments and to Do and Cause to Be Done Any and All Acts and Things Necessary or Proper for Carrying out the Transactions Contemplated by this Resolution; and Providing for an Effective Date. [Jane Struder, Director of Finance]

Town Attorney Randolph read Resolution No. 13-10 by title, as printed above.

Council Member Diamond asked about the liability, or loss to the Town if the Worth Avenue Improvement District did not go through with the project.

Mr. Michael Hole, deferred to legal counsel for a response.

Mr. Rick Miller, bond counsel with Edwards, Angell, Palmer & Dodge, answered Council Member Diamond's question. He stated that if the transaction did not go forward, there would be a special call of the bonds. The debt service would have been covered to date with capitalized interest. That transaction would go away with series B bonds, which was worth Avenue, would disappear. He noted that there were two series, series A was for the capital improvement fund and series B was the Worth Avenue project. If a special assessment was not paid, the non-payers would be on the tax roll and the Pam Beach County Tax Collector would enforce the collection of taxes.

Council President Rosow said the Town was going to get their money and the goal was to keep taxes low. The next portion of the Capital Improvement Plan comes forward, they will have to sell bonds to finance the future capital expenditures.

Mayor McDonald said not to spend time on issues because the Town was pretty well covered.

Motion to approve Resolution No. 13-10 made by Council President Pro Tem Coniglio, and seconded by Council Member Kleid. On roll call, the motion carried unanimously.

b. RESOLUTION NO. 14-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Supplementing Town Resolution No. 13-10 to Authorize the Negotiated Sale of Town of Palm Beach, Florida Public Improvement Revenue and Refunding Bonds, Series 2010A (Capital Improvement Project) and Town of Palm Beach, Florida Public Improvement Revenue Bonds, Series 2010B (Worth Avenue Commercial

District Project); Approving the Form of and Authorizing the Distribution of a Preliminary Official Statement in Connection with the Series 2010 Bonds; Authorizing the Execution and Delivery of an Official Statement in Connection with the Offering of the Series 2010 Bonds; Authorizing the Execution and Delivery of a Bond Purchase Agreement; Requiring Compliance Within Certain Statutory Requirements; Authorizing the Purchase of a Bond Insurance Policy And/or Reserve Account Credit Facility If Deemed Cost Effective; Authorizing and Directing the Town Manager and Finance Director to Determine Certain Other Details of Said Series 2010 Bonds Within the Parameters Set Forth Herein; Authorizing the Proper Officials to Do All Other Things Deemed Necessary or Advisable in Connection with the Issuance, Sale and Delivery of Said Series 2010 Bonds; and Providing for an Effective Date. [Jane Struder, Director of Finance]

Town Attorney Randolph read Resolution No. 14-10 by title, as printed above.

Motion to approve Resolution No. 14-10 made by Council Member Diamond, and seconded by Council President Pro Tem Coniglio. On roll call, the motion carried unanimously.

3. RESOLUTION NO. 8-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Town Manager to Contract with Applied Technology & Management, Inc., for Mid-Town Beach Cumulative Assessment. [H. Paul Brazil, Director of Public Works]

This item was pulled from the Consent Agenda.

Council Member Diamond pulled the item from consent and said it was an expense of $40,000. To expend on an analysis of a complaint from DEP challenging the way beach re-nourishment was handled. There was a possibility that the Town could be required to mitigate the sand effects to the tune of millions of dollars. He stated that this was a definite challenge to the manner in which the Town handled projects. This could be problem for the Town in long-term litigation and/or long term problem where the Town can ill-afford the expenditures.

Council Member Kleid pointed out that certainly there was an exposure. What they have is a process and they are mandated to do biological monitoring. A large portion of funds requested by the Shore Protection Board are mandatory requirements by various agencies. The DEP reviews the reports and that is the step the Town is at right now. The DEP has asked for more information and that is what the request was for. There was no need to spread fear and the process is very common.

Council President Pro Tem Coniglio agreed with Council Member Kleid. She added that the next project would be a significant cost share with FEMA for a second re-nourishment project at Mid-Town. She found the $40,000 a sorry excuse by DEP to once again continue the endless

monitoring. She also sees it as a well spent $40,000 in order to move forward and obtain the cost sharing for the FEMA project.

Council Member Diamond stated that he had no objection to spending the $40,000, but he stressed that it could have ramifications beyond that amount. He said that the letter from DEP stated that the Town did the project wrong. There was a possibility of substantial mitigation requirement which could cost in the millions of dollars. This should not have been on consent and glossed over when this could lead to a great liability to the Town in a bad economic time.

Council Member Kleid challenged Council Member Diamond to tell the Council what to do now and what should have been done then. He wanted to know if they should not have re-nourished Mid-Town or if the waves should have eroded the beaches and not protect the citizens. He is tired of comments and criticism when no one has come up with a viable plan. The goal was to protect the beaches but he had not heard of any plans that were perfect.

Council Member Diamond responded that the Mid-Town re-nourishment was done prior to his tenure on the Town Council. He suggested to look back at what has happened and with a real economic problem facing the Town, heed the warning on how to proceed in the future.

Council Member Wildrick read the DEP letter and stated that he supported the Resolution. He did not feel what Council Member Diamond said was offensive. He noted that everyone was concerned with protecting the shoreline. He asked why Palm Beach stumbles when other cities do better. He will explore that further with staff moving forward. The Town needed results and no one was to blame.

Motion to approve Resolution No. 8-10 was made by Council President Pro Tem Coniglio, seconded by Council Member Wildrick. On roll call, the motion carried unanimously.

B. New Business

1. Consideration of Scheduling an Attorney/Client Session Regarding State of Florida Department of Transportation vs Town of Palm Beach, et al, Case No. 50 2009 CA 035248 XXIX MB AN, Fifteenth Judicial Circuit Court, Palm Beach County, Florida to Discuss this Matter Immediately Following this Regular Town Council Meeting in the Administrative Conference Room, 360 South County Road, Palm Beach Florida. Attorney/Client Session Attendees: Mayor Jack McDonald; Town Council President David A. Rosow; Town Council President Pro Tem Gail Coniglio; Town Council Members William J. Diamond; Richard M. Kleid; and Robert N. Wildrick; Town Manager Peter B. Elwell; Town Attorney John C. Randolph; Attorney H. Adams Weaver; and Ley & Marsaa Court Reporters. [John C. Randolph, Town Attorney]

Town Attorney Randolph asked advice from the Town Council at a Closed Door Session in regard to Case No. 50 2009 CA 035248 XXIX MB AN, Fifteenth Judicial Circuit Court. This

was the eminent domain proceeding. He asked for a motion to authorize a closed door session to immediately following the Town Council meeting to discuss the matter.

The attendees would be:

Mayor Jack McDonald
Town Council President David A. Rosow
Town Council President Pro Tem Gail Coniglio
Town Council Members:
William J. Diamond
Richard M. Kleid
Robert N. Wildrick
Town Manager Peter B. Elwell
Town Attorney John C. Randolph
Attorney H. Adams Weaver
Ley & Marsaa Court Reporters.

Motion to approve the scheduling of an Attorney/Client Session immediately following the Regular Town Council meeting made by Council Member Diamond, seconded by Council President Pro Tem Coniglio. On roll call, the motion carried unanimously.

2. Proposed Landscape Plan and Fundraising Project at 240 Park Avenue.[H. Paul Brazil, Director of Public Works]

Public Works Director Paul Brazil recommended approval of the master plan for 240 Park Avenue. The second item was to approve a brick paver fundraiser for Island Cats.

Isabel Furlaud, 745 Hi Mount Road, was asking for donations from the public to support Island Cats. They wanted to sell brick pavers in the park with an inscription of a pet name for $100.00 each. Dogs or cats could be included and a sample brick was shown to the Town Council.

There was discussion as to whether the Town should allow private fundraising on public property and it was the consensus of the Council, it was a bad precedent.

Mayor McDonald expressed sympathy for Island's Cats financial situation, but reiterated that Town property should not be used to support private charities. The Mayor indicated he receives several requests from charities and they have always been denied.

Council Member Wildrick indicated that Island Cats had done good job since they had taken over the feral cat program.

Council President Rosow with Mayor McDonald and would be happy to donate personally to Island Cats.

Town Manager Elwell indicated that the staff recommended deal with the items as two separate issues. The first was the approval of the overall design of the park. The second action separate and apart from the park would be the brick pavers and charitable fundraiser.

Motion to approve the landscaping plan made by Council Member Diamond, seconded by Council Member Kleid. On roll call, the motion carried unanimously.

Council Member Wildrick commended Public Works staff on their project at Tangier Avenue. They have done a god job at the nursery, cleaning that up and making it usable to the neighborhood and knows that one of his hot buttons was beautification of the Town and he thought Public works Director was doing a great job.

David Levitt, 1480 Via Manana, and Treasurer of Island Cats, gave a brief report on the cats since they have taken over as feral cat providers. They indicated that they needed $150,000 to sustain themselves.

Mayor McDonald stated that no one was criticizing the efforts of Island Cats. He reminded Mr. Levitt that they (Island Cats) had stated previously they did not need Town support.

Council Member Kleid spoke in support of Island Cats and indicated if they were not there, the Town would have to subsidize the program. Council Member Diamond agreed and felt it would be good for the Town.

Allen Mason, 1485 Via Manana, reminded the Town Council that this was a fundraiser. The purpose and was the main fundraiser. There cannot be a full fundraiser event established within six months, especially during the summer months. He wanted to plead their case, and the primary goal was to control the feral cat program.

Motion to adopt the Island Cats fundraiser proposal made by Council Member Diamond, seconded by Council Member Kleid. On roll call, the motion failed 3-2.

Council President Rosow	**No**
Council President Pro Tem Congilio	**No**
Council Member Kleid	**Yes**
Council Member Wildrick	**No**
Council Member Diamond	**Yes**

3. Proposed Modification of Golf Fee Schedule and Procedures. [Jay Boodheshwar, Director of Recreation]

a. RESOLUTION NO. 12-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Recreation Department Fees for Fiscal Year 2010.

Motion to approve Resolution No. 12-10 made by Council President Pro Tem Coniglio, seconded by Council Member Diamond. On roll call, the motion carried unanimously.

4. Appointment of New County Budget Task Force.

Council President Rosow indicated that the suggestion was made by Mayor McDonald, which was an excellent suggestion, that we create a County Task Force and the Mayor suggested that Council Member Widrick be Chair of the Task Force. Council Member Wildrick stated he would do it on the basis of being harmonious and not acrimonious.

There was discussion of how the Task Force should be created and if other Town Council members would serve. Mayor McDonald felt it should be made up of three to five members. Council President Pro Tem Coniglio offered to serve with Council Member Wildrick. Council member Kleid commended Council Member Wildrick in his role on the Finance and Taxation Committee Chair and would also do a great job with this role as well.

The mayor suggested members from the community that represent major organizations such as the Civic Association, Citizens' Association etc. To follow up on that point, Council president Pro Tem Coniglio indicated that she has met with four of the County Commissioners on a one-on-one basis. That should be an ingredient in the task force that absolutely needed to be defined and since it would comply with Sunshine Laws, it would be her pleasure to serve.

Council President Rosow felt there should only be one Town Council member or else have public meetings. If members of the Town Council are on it, it becomes politicized. Council Member Wildrick stated he thought the Mayor's idea was a good one and shows leadership.

Mayor McDonald stated that the objective was to reduce taxes and there should be Town support. Council Member Wildrick said that at a minimum, this Task Force would increase the relationship with the County.

Town Attorney Randolph suggesting voting to establishing a Task Force today, but he recommended the individuals that Council Member Wildrick would like to serve and be appointed be presented at the next town Council Meeting.

Motion to appoint Council Member Wildrick as Chair of a newly created County Budget Task Force made by Council Member Diamond, seconded by Council President Pro Tem Coniglio. On roll call, the motion carried unanimously.

XI. ORDINANCES

A. Second Reading

1. ORDINANCE NO. 21-09 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 10, Animals, Article I, in General, Section 10-1, Definitions, Regarding Domesticated Household Pets or Domesticated Animals and Livestock; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date. [John C. Randolph, Town Attorney]

Town Attorney Randolph read Ordinance No. 21-09 by title, as printed above.

Motion made to adopt Ordinance No. 21-09 made by Council President Pro Tem Coniglio, seconded by Council Member Diamond. On roll call, the motion carried unanimously.

2. ORDINANCE NO. 23-09 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 42, Environment, Article V, Noise, Section 42-196, Providing a Definition for a Considerable Number of Persons; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.[John C. Randolph, Town Attorney]

Town Attorney Randolph read Ordinance No. 23-09 by title, as printed above.

Motion made to adopt Ordinance No. 23-09 made by Council Member Diamond, seconded by Council Member Kleid. On roll call, the motion carried unanimously.

B. First Reading

None

XII. ANY OTHER MATTERS

Council President Pro Tem Coniglio asked staff to follow-up on the application by Mr. William Donner to build a new island on the south end of Palm Beach. She wanted this brought to the community's attention. She would like bi-monthly updates. She noted that the Citizens' Association was aware of the project and was opposed to it.

Council Member Wildrick stated he was opposed to this project and there would be no gain to the Town. There would also be an environmental impact and bad for the citizens.

XIII. ADJOURNMENT

There being no further business, the Town Council Meeting of January 12, 2010, was adjourned at 11:39 a.m.

APPROVED:

David A. Rosow
Town Council President

ATTEST:

Joanna Cunningham
Town Clerk