TOWN OF PALM BEACH

Office of The Town Clerk

MINUTES OF THE REGULAR TOWN COUNCIL MEETING HELD ON JANUARY 8, 2008

I. CALL TO ORDER AND ROLL CALL

The Regular Town Council Meeting was called to order on Tuesday, January 8, 2008, at 9:30 a.m., in the Town Council Chambers. On roll call, the following elected officials were found to be present:

Mayor Jack McDonald
President Richard M. Kleid
President Pro Tem Denis P. Coleman
Council Member William J. Brooks
Council Member Gail Coniglio
Council Member Susan Markin

Others present for all or a portion of the meeting were:

Town Manager Peter B. Elwell
Deputy Town Manager Thomas G. Bradford
Assistant Town Manager Sarah E. Hannah
Town Attorney John C. Randolph
William Amador - Fire-Rescue Chief
Kirk Blouin, Administrative Captain, Police
Jay Boodheshwar - Recreation Director
James Bowser - Town Engineer
Paul Brazil - Public Works Director
Eric Brown - Public Works Assistant Director
Veronica Close - Planning, Zoning and Building Assistant Director
Paul Castro - Zoning Administrator
William Crouse - Human Resources Director
Jane Day - Historical Preservation Consultant
Tim Frank - Planning Administrator

Post Office Box 2029 • 360 South County Road • Palm Beach, Florida 33480
Telephone (561) 838-5416 • Facsimile (561) 838-5417
E-mail: townclerk@townofpalmbeach.com • Website: www.townofpalmbeach.com
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01/29/2010

Fred Hess - Police Sergeant
Charles Langley - Public Works Assistant Director
John Page - Planning, Zoning and Building Director
Michael Reiter - Police Chief
Jane Struder - Finance Director
Spencer Wilson, Information Systems Manager
Susan Eichhorn - Town Clerk

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Town Clerk Eichhorn gave the invocation. President Kleid led the Pledge of Allegiance.

III. PRESENTATIONS

A. Recognition of Harrison M. Robertson, Planning and Zoning Commission, From March 2000 Through November 2007.

Mayor McDonald gratefully recognized Harrison M. Robertson for his service on the Planning and Zoning Commission, from March 2000 through November 2007.

B. Recognition of Robert D. Harvey and Alexander T. Harvey for Their Community Minded Actions Related to the State Board of Administration Municipal Investment Pool.

Mayor McDonald stated that he would like to recognize Robert and Alexander Harvey and would give a little background on this. Last November 28th when the bottom was falling out of the State Board of Administration Municipal Investment Pool, Robert Harvey sent an e-mail to the Town Manager providing a copy of the alarming Bloomberg story found by his son Alexander. He suggested that the Town needed to take action to protect our investments. The Town Manager, the Finance Director, and the Investment Advisory Committee were monitoring the situation, but the Bloomberg story made it clear that the situation was degrading rapidly. The Town Manager and Finance Director agreed with the advice to withdraw our funds as soon as possible. All the funds, $51 million, were removed that afternoon, unlike the Town of Port St. Lucie who deposited money that day and had it all frozen the next day. The next day the State froze the pool and suspended withdrawals, which remains in effect today, causing a cash flow crisis and hardship for many municipalities across Florida, including Port St. Lucie who has $371 million in the fund.

So, thank you Robert and Alexander Harvey for applying your investment expertise for the good of your community. You could have just watched this situation as an observer. Instead you acted by sounding the alarm and helped the Town avoid having a substantial amount of investments trapped in a failing and frozen fund. I understand why you have been selected as one of the most dependable wealth managers of Florida, and on behalf of the Council and myself, $51,000 million thanks to you.

C. Recognition of Gary Sallenbach, Police Major, Upon His Retirement from the Town of Palm Beach After 28 Years and 9 Months of Service.

Mayor McDonald recognized Gary Sallenbach, Police Major, for his years of service, noting that he was 2002 Town of Palm Beach Employee of the Year, he had accumulated 71 commendations, and he was Officer of the Month five times. He stated that he had been a very important part of the success of the best Police Department in Florida.

D. Recognition of Tim Frank, Planning Administrator, for 20 Years of Town Service.

Mayor McDonald recognized Tim Frank, Planning Administrator, for 20 years of service to the Town and the following significant items that he had accomplished during his years of service:

- Since Mr. Frank has been the Planning Administrator, over 10 Historic Grants for preservation in the Town had been received, and before that, the Town had received none.

- Mr. Frank was also responsible for crafting the Town's Comprehensive Plan when that was adopted by the State. The Plan was put together in 1989 and formally adopted in 1990.

IV. COMMENTS OF MAYOR JACK McDONALD

I have three comments today. The first is Ibis Park. There is a park being created on Ibis Island on what was a vacant, unattractive Town lot. The construction of this new park is a joint effort between the Town and Ibis Island residents. The Town agreed to split costs up to $37,500. Island fundraising led by Mr. Terry Levine now exceeds $58,450 with an additional donation of $10,000 for 2008 maintenance, for a total of almost $70,000 raised by the residents.

The Public Works Department led by Joe Ugi, Facilities Maintenance Division Manager, has done a masterful job in building the park, and the three marble columns that arrived from Italy were installed last week.

I applaud the residents for initiating this community project. The public dedication is this Saturday at 2:00 p.m., and I welcome everyone to come see the newest gem in Town.

Next our Donation Policy. In September, in my Mayor's Comments and during Council discussion, I spoke against implementing a Donation Policy requiring approval for donations. As I stated then, it is a flawed policy. It replaced a policy that served the Town well for many years. The new policy, three months old, has scored its first casualty resulting in a loss of over $300,000 for a new emergency medical vehicle and police weapons. Instead of those funds now sitting in our account, because the donation would have been made before December 31st, they have vanished. And in this time of severe budgetary pressure, it is unwise and shortsighted to discourage charitable donations especially for operating items that now must be unnecessarily born by our residents. I strongly urge the Council, again, to rescind this policy and limit our loss at S300,000.

I would like to remind everyone in the audience that tonight is our Town Caucus at 8:00 p.m. It is the excitement and uniqueness of it that is attractive to everyone. So, please be here in the same room at 8:00 p.m., and you will be able to see what is our example of the Oscars.

Thank you very much.

V. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

President Pro Tem Coleman commented that during his three years on the Town Council he had rarely seen a meeting end before 5:00 p.m., and on numerous occasions the meetings have gone to 7:00 p.m. or 8:00 p.m. He noted that one of the areas the Town Council had spent a great deal of time on was Development Reviews, and he was requesting that discussion of that item be added to next month's Town Council Meeting. He explained that he would like to recommend that variances should be heard at ARCOM, or, where relevant, at the Landmarks Preservation Commission, with the Town Council retaining construction or commercial areas. The desire was to shorten meetings, which would be fair to the applicants and fairer to the Town Council.

President Kleid noted that with no objections, it would be added to the agenda.

01/29/2010

Council Member Brooks commented that he agreed with President Pro Tem Coleman, noting that he had been trying to do the same for many years and had been unsuccessful. He reiterated the Mayor's invitation to the Town Caucus tonight.

VI. COMMUNICATIONS FROM CITIZENS- 3 MINUTE LIMIT PLEASE
(Another opportunity for communications from citizens will be offered immediately after the lunch break.)

Henry McIntosh, 124 Via Bethesda, commented on the following:

- Opposition to the widening and deepening of the Inlet.
- Attendance at the Port of Palm Beach meeting tomorrow to protest the Inlet expansion.
- Consideration to filing a suit against the Corps of Engineers if they were unwilling to reimburse the Town for some of the Town's beach maintenance costs.
- The importance of the Town making it abundantly clear that the widening and deepening of the Inlet would not happen without proper compensation and protection for the Town.
- Opt out of the State mandate for the FY09 budget.
- The Comprehensive Review of Town Operations.

After the luncheon recess, public comment was received from the following:

Gerald Frank, 2784 South Ocean Boulevard, commented on the following:

- Opt out of the State mandate for the FY09 budget
- Reach 8 Beach Project
  - Financing alternatives
  - Permits
- Comprehensive Coastal Management Plan
- The Comprehensive Review of Town Operations
- Special Taxing Districts
- Coastal Coordinator

Lenore Barrett, 3200 South Ocean Boulevard, commented on the lack of the right of "snowbirds" to vote in local elections.

Wendy Victor, 208 Via Tortuga, commented on the expansion of the Hebrew Academy.

Jack Benjamin, 3200 South Ocean Boulevard, commented on beach erosion issues.

01/29/2010

After public comment, discussion ensued, and a **motion was made by President Pro Tem Coleman, seconded by Council Member Coniglio to declare the intent of the Town Council to override/opt out of State budget mandates, if necessary, in order to guarantee that funds will be available when permits are obtained for Reach 8, so that a one-time tax increase could be imposed for the cost of beach projects.**

Allen Wyett, 1145 North Lake Way, commented on overriding/opting out of State mandate regarding the FY09 budget, and on the issuance of a revenue bond.

Royall Victor, 208 Via Tortuga, strongly supported opting out of the State mandate for the FY09 budget.

Dr. Sanford Kuvin, 149 E. Inlet Drive, relative to Mr. Coleman's comments that there were only two ways to secure money: appropriate and borrow, he advised that there was a third, which he recommended and that was to authorize. He requested Mr. Elwell and Town Attorney Randolph provide definitions as to what opting out was, and what the advantages and disadvantages.

Discussion ensued and Town Attorney Randolph explained that the motion made was to show the intent of the Town Council to opt out, if necessary. It was not a vote to opt out.

Stanley Rumbough commented on the support of the Palm Beach Civic Association to the Town Council.

On roll call, the motion made by President Pro Tem Coleman, seconded by Council Member Coniglio to declare the intent of the Town Council to override/opt out of State budget mandates, if necessary, in order to guarantee that funds will be available when permits are obtained for Reach 8, so that a one-time tax increase could be imposed for the cost of beach projects, carried 4/1, with Council Member Markin dissenting.

VII. APPROVAL OF AGENDA

The following modifications were made to the Agenda:

DEFERRED Item VIII.E.1., Approval of Agreement for Long Term Maintenance of Ibis Isle Park, indefinitely.

WITHDREW Item XII.A.1., Appeal by the Bath and Tennis Club of an Administrative Decision Not to Allow Cooling Towers Eighteen Feet from the Side Property Line, 1170 South Ocean Boulevard.

DEFERRED Item XII.C.3.b., Special Exception #10-2007 Revised, 235 Sunrise Avenue, to the February 12, 2008, Town Council Meeting.

DEFERRED Item XII.C.3.c., Special Exception #14-2007 with Site Plan Review and Variances, 476 South Ocean Boulevard, to the February 12, 2008, Town Council Meeting.

DEFERRED Item XII.C.3.d., Special Exception #15-2007 with Site Plan Review and Variances, 241 Seaview Avenue, to the February 12, 2008, Town Council Meeting.

DEFERRED Item XII.C.3.f., Site Plan Review #23-2007 with Special Exceptions and Variances, 333 Peruvian Avenue, to the February 12, 2008, Town Council Meeting.

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

VIII. CONSENT AGENDA

A. MINUTES: DECEMBER 11, 2007
APPROVAL OF THE MINUTES OF THE TOWN COUNCIL MEETING

B. MINUTES: DECEMBER 21, 2007
APPROVAL OF THE MINUTES OF THE SPECIAL TOWN COUNCIL MEETING

C. APPROVAL OF MAJOR MATTERS CONSIDERED BY THE ARCHITECTURAL COMMISSION AT ITS MEETING ON DECEMBER 21, 2007.

D. RESOLUTIONS

1. RESOLUTION NO. 1-08 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing Ad Valorem Tax Exemptions for the Property Hereinafter Described (209 Seaspray Avenue) and Stating That the Subject Property Meets the Criteria Set Forth in Ordinance No. 31-93, Also Known as Chapter 54, Article V of the Code of Ordinances of the Town of Palm Beach, Relating to Landmarks Preservation and Titled "Tax Exemptions."
[John S. Page, Director of Planning, Zoning, and Building]

2. RESOLUTION NO. 2-08 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing Ad Valorem Tax Exemptions for the Property Hereinafter Described (221 Seaspray Avenue) and Stating That the Subject Property Meets the Criteria Set Forth in Ordinance No. 31-93, Also Known as Chapter 54, Article V of the Code of Ordinances of the Town of Palm Beach, Relating to Landmarks Preservation and Titled "Tax Exemptions."
[John S. Page, Director of Planning, Zoning, and Building]

3. RESOLUTION NO. 3-08 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Contract to D.B. Ecological Services, Inc. for Sea Turtle Monitoring for the Town of Palm Beach, Sealed Bid Number 2007-21. [H. Paul Brazil, Director of Public Works]

E. OTHER

1. Approval of Agreement for Long Term Maintenance of Ibis Isle Park. [H. Paul Brazil, Director of Public Works] *Deferred from the December 11, 2007, Town Council Meeting.* **Request for Deferral Per Letter Dated December 28, 2007, From Howard Rudolph, Esq.**
(Deferred Item VIII.E.1, indefinitely)

Motion made by President Pro Tem Coleman, seconded by Council Member Coniglio to approve the Consent Agenda as amended. On roll call, the motion carried unanimously.

IX. COMMITTEE REPORTS

A. Public Works Committee Meeting of January 3, 2008.
[Susan Markin, Town Council Member]

President Kleid stated for the record that today was Council Member Markin's birthday, and the Town Council wished her a very happy birthday.

Council Member Markin advised that a Public Works Committee Meeting had been held on January 3, 2008, and presented a brief recap of the meeting, noting the purpose of the meeting and the actions taken. One of the action items was to discuss, at a future meeting, the options for a formula on what it would take to put money in a reserve to accommodate the Town's aging infrastructure and ensure money would be there to accommodate maintenance and upgrades.

Several contractors attended the meeting to express their concerns relative to the permitting process. The meeting resulted in about ten different action items, that Public Works would entertain along with the coordination of Planning, Zoning, and Building Department in an attempt to improve that process. The details would be presented at the next meeting.

Council Member Markin noted that the Report of the Public Works Committee Meeting would be available at the February 12, 2008, Town Council Meeting.

X. REGULAR AGENDA

A. Old Business

1. Placement of Overhead Utility Lines Underground.
[Thomas G. Bradford, Deputy Town Manager]

a. Pilot Project from LaPuerta Way to Tradewind Drive.
TIME CERTAIN: 11:00 A.M.

Deputy Town Manager Bradford advised that in order for Rod Macon, Regional Director, Florida Power & Light Company to be present to answer questions from the Town Council, this item was set for a time certain. He noted that Robert Lowen along with the new area manager of AT&T were present as well.

Mr. Bradford referred to his memorandum to the Mayor and Town Council dated January 2, 2008, and included in the backup material, to provide a status report regarding burial of overhead (OH) Utility Lines as well as discuss the proposed pilot project from LaPuerta Way to Casa Bendita. Mr. Bradford noted that staff was requesting direction from the Town Council on the following two issues:

- Direction regarding FPL's request to rebuild the "Northwood Feeder," which impacts the quality of electrical service from LaPuerta Way to Casa Bendita. The area was larger than previously believed when presented a month ago.

- Direction relative to the responses of the three affected utilities to provide the Town with information on binding cost estimates and other information.

Rod Macon, Regional Director, Florida Power and Light Company (FPL) provided a brief overview of the project, along with the reasons FPL was requesting approval from the Town Council to allow FPL to rebuild the overhead facilities to a new hardened standard on North Ocean Boulevard as soon as possible.

01/29/2010

Mr. Macon advised that the location in question was not ideal for conducting a pilot project and suggested that the Town consider the location on the north end recommended by Mr. Bradford. He noted that if the Town wished to pursue this further, FPL would work with Town staff, between now and the February 12, 2008, Town Council Meeting, to come back with that information. He responded to questions and concerns of the Town Council.

After further discussion, the consensus of the Town Council was to direct staff to provide permits to Florida, Power & Light in order that they could begin the project to rebuild a portion of the overhead wiring system, which would be done during the season.

Council Member Brooks made a motion to allow Florida, Power & Light to rebuild a portion of the overhead wiring system (the "Northwood Feeder") with the new hardened standard. The motion was seconded by Council Member Markin. On roll call, the motion carried unanimously.

Mr. Bradford questioned whether the Town Council wanted staff to pursue Florida, Power & Light binding cost estimates or pursue a pilot project as a means of getting to the bottom of real costs for the underground utilities project.

Mr. Macon responded to questions and concerns of the Town Council.

Lloyd Ecclestone, 190 South Ocean Boulevard, urged acceptance of the engineering proposal for the north end, which would cost approximately $50,000, to get the process moving.

After discussion between the Town Council, staff, Mr. Macon and Mr. Ecclestone, **Council Member Coniglio made a motion to table further discussion regarding Florida, Power & Light binding cost estimates and a pilot project for one month, coming back to the February 12, 2008, Town Council Meeting. The Town should continue to move forward with FPL to extend the tariff. Council Member Brooks seconded the motion. On roll call, the motion carried unanimously.**

Mr. Ecclestone suggested that the Town Council consider voting 5/0 to opt out of the State mandates for the FY09 budget.

2. RESOLUTION NO. 4-08 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving an Amendment to the Valet Parking Agreement with Express Parking, Inc. to Reduce the Number of Required Valet Parking Stands to Be Operated.
[Thomas G. Bradford, Deputy Town Manager]

01/29/2010

Deputy Town Manager Bradford referred to his memorandum to the Mayor and Town Council December 21, 2007, and included in the backup material, to discuss Resolution No. 4-2008, which would approve an amendment to the Valet Parking Agreement with Express Parking.

Mr. Bradford informed the Town Council that the Mr. Jeff Jennings, President of Express Parking had advised him that the valet stand in the 100 block of Worth Avenue was not working out financially and requested that he be allowed to close that stand. He advised that he had allowed Mr. Jennings to temporarily close that location, but had informed him that the Town Council had the final say, due to the Valet Parking Agreement between Express Parking and the Town.

Town Attorney Randolph read Resolution No. 4-08 by title, as printed above.

Motion made by President Pro Tem Coleman, seconded by Council Member Coniglio to approve Resolution No. 4-08. On roll call, the motion carried unanimously.

3. Coastal Management Program.

a. Lake Worth Inlet Sand Transfer Plant.
[H. Paul Brazil, Director of Public Works]

Town Manager Elwell provided a brief update on the Lake Worth Inlet Sand Transfer Plant, noting that the Town had received good news: the Federal government had appropriated over $1.8 million for Phase I in order to move forward with the upgrade of the Sand Transfer Plant on the north side of the Inlet. Phase II had not, as yet, been funded.

Mr. Elwell advised that the Project Cooperation Agreement with the United States Army Corps of Engineers (USACE) would be signed in an estimated four to six months.

The Town Council accepted the report of Mr. Elwell regarding the update of the Sand Transfer Plan.

b. Coordination with Neighboring Municipalities.
[Peter B. Elwell, Town Manager]

Town Manager Elwell referred to his memorandum to the Mayor and Town Council December 21, 2007, and included in the backup material, to discuss coordination with neighboring municipalities regarding coastal management issues.

The consensus of the Town Council was as follows:

- To approve increasing active engagement with the City of Lake Worth, and the Towns of Lantana, Manalapan, and South Palm Beach to promote a regional approach to coastal management.

- To propose and support the re-creation of the Palm Beach Countywide Beaches and Shores Council as an active organization for both information sharing and regional planning, coordination, and advocacy for the coastal protection programs being pursued by individual jurisdictions.

c. Coastal Coordinator Staff Position and Staffing for Shore Protection Board.
[H. Paul Brazil, Director of Public Works]

Town Manager Elwell referred to Mr. Brazil's memorandum to the Mayor and Town Council December 26, 2007, and included in the backup material, to discuss the Coastal Coordinator position as well as a staff position if the Town Council elected to establish a Shore Protection Board.

Mr. Elwell suggested that before addressing the staffing question, the Town Council needed to address the establishment of a Shore Protection Board.

After consideration of Item X.A.3.d., Ordinance No. 1-08, the consensus of the Town Council was to defer the first reading of Ordinance No. 1-08 to the February 12, 2008, Town Council Meeting with the changes discussed as follows:

- Create a 7-member Shore Protection Board, one of whom may be a non-resident, with three-year terms in classes of 2-2-3.

The Town Council discussed the Coastal Coordinator position and staffing for the Shore Protection Board. Mr. Elwell suggested that the Town Council authorize staff to proceed with recruitment for the Coastal Coordinator position as a staff position; and for this month only, consideration would be given to a contractual, not for an employee, administrative position role. Staff, if they determined that would not be workable, would come back before the Town Council to explain why it was not workable.

After further discussion, **President Pro Tem Coleman made a motion, seconded by Council Member Brooks authorizing the increase of staffing levels to accommodate a Coastal Coordinator position. On roll call, the motion carried unanimously.**

01/29/2010

The Town Council would authorize funding at the February 12, 2008, Town Council Meeting. The administrative staff support position would be determined at a later date.

d. ORDINANCE NO. 1-08 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 2, Administration, to Include a New Article IX Creating a Shore Protection Board; Providing for Appointments, Terms, Qualifications, Functions, Regulations and Procedures; 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. 1-08 by title, on first reading, as printed above.

Discussion ensued relative to the formation of a Shore Protection Board, the Coastal Coordinator position, and staffing for the Board, with comments from the following citizens:

Henry McIntosh, 124 Via Bethesda suggested the formation of a larger board with three classes in order to have institutional memory. He explained that as one class expired and was re-elected, there would be two more classes to carry on.

Peter Pettie, 3400 South Ocean Boulevard, commented on the conflicts that the Town might place themselves in with governmental agencies that would be needed for the next 30 years. He questioned where a board or committee would get their guidance from if the Town went in different directions for different purposes.

After further discussion, the consensus of the Town Council was as follows:

- Defer Ordinance No. 1-08, for first reading, at the February 12, 2008, Town Council Meeting with the following changes:
  - Create a 7-member Shore Protection Board, one of whom may be a non-resident, with three-year terms in classes of 2-2-3.

e. Proposed Town Comments on Experimental Project at The Breakers. [Peter B. Elwell, Town Manager]

Town Manager Elwell referred to his memorandum to the Mayor and Town Council dated December 21, 2007, and included in the backup material, to discuss the Experimental

Coastal Protection Project at The Breakers. He noted that present today was Mr. Bjorn Iversen who was working with The Breakers to plan a test installation of a coastal protection method.

Mr. Elwell advised that staff recommended the Town Council approve the letter drafted by Mayor McDonald regarding the proposed installation of plastic pipes to reshape a groin adjacent to The Breakers, and to authorize that the letter be sent to the Florida Department of Environmental Protection.

After discussion, **Council Member Brooks made a motion to approve the draft letter, as written, by Mayor McDonald, and authorized that the letter be sent to the Florida Department of Environmental Protection. President Pro Tem Coleman seconded the motion. On roll call, the motion carried unanimously.**

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The luncheon recess was taken at 12:30 p.m.
The Town Council Meeting of January 8, 2008, was reconvened at 2:00 p.m.

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4. Status Report on Townwide Hiring Freeze.
[Peter B. Elwell, Town Manager]

Town Manager Elwell referred to his memorandum to the Mayor and Town Council dated January 3, 2008, and included in the backup material, to provide a monthly status report on the Town hiring freeze.

The Town Council accepted the status report on the Townwide hiring freeze as presented by Mr. Elwell.

B. New Business

1. Status Report on Storm Drainage Improvements North of Wells Road.
[H. Paul Brazil, Director of Public Works]

Director of Public Works Paul Brazil referred to his memorandum to the Mayor and Town Council dated December 26, 2007, and included in the backup material, to provide a status report on storm drainage improvements. Staff requested that the Town Council reiterate its prior approval to complete all storm drainage improvements currently scheduled to be funded with the existing fund balances until that funding was exhausted.

After discussion, **Council Member Coniglio made a motion to expend the funds that were available to complete the work that was necessary to maintain what had been started and that the Town hold, at that point, until it was seen where the funding sources lead. The motion was seconded by Council Member Brooks. On roll call, the motion carried unanimously.**

2. Funding Alternatives for Future Drainage Improvements and Coastal Protection Projects. [Peter B. Elwell, Town Manager]

Town Manager Elwell referred to his memorandum to the Mayor and Town Council dated December 21, 2007, and included in the backup material, to discuss future financing alternatives for drainage improvements and Reach 8 Projects due to the defeat of the bond referendum.

The consensus of the Town Council was to move ahead with permits for the Reach 8 Project.

Finance Director Jane Struder referred to her memorandum to the Mayor and Town Council dated December 21, 2007, and included in the backup material, to present four funding alternatives for financing.

Public comment was received from the following persons:

Alec Flamm, 2000 South Ocean Boulevard
Allen Wyett, 1145 North Lake Way
Peter Pettie, 3400 South Ocean Boulevard
Garrison Lickle, 400 South Ocean Boulevard
Louis Scotts (ph), South end condominium owner
Richard Raffo, 173 E. Inlet Drive
Dr. Sanford Kuvin, 149 E. Inlet Drive

After discussion, the Town Council accepted the report of Finance Director Struder regarding funding alternatives, deciding not to take any further action to select a preferred method of funding from among the alternatives that were discussed.

3. Authorization for Privately Funded Improvements at the LaPuerta Way Beach Access. [H. Paul Brazil, Director of Public Works]

01/29/2010

Director of Public Works Paul Brazil referred to his memorandum to the Mayor and Town Council dated December 27, 2007, and included in the backup material, to discuss authorization for privately funded improvements at the LaPuerta Way beach access. LaPuerta Way beach access was public and would remain public.

Mr. Brazil commented that correspondence had been received from Mr. Tim Givens, and other residents in the immediate area of the LaPuerta Way beach, to request Town Council's approval for this project. He advised that Town staff recommended that the Town Council authorize Town Manager Elwell to enter into an Installation and Maintenance Agreement regarding the proposed landscape improvements.

Council Member Coniglio congratulated Mr. Givens and **made a motion to authorize the Town Manager to enter into an Installation and Maintenance Agreement regarding the proposed landscape improvements at the LaPuerta Way beach access. The motion was seconded by Council Member Brooks. On roll call, the motion carried unanimously.**

4. Review of Town Donations Policy.
[William J. Brooks, Town Council Member]

Council Member Brooks briefly reviewed the history of the Town's current Donation Policy, noting it had been put into effect September 11, 2007. He requested that the Town Council rescind the existing policy and revert back to the previous policy. The Town Manager and Finance Director would handle the donations, and if they had a problem with a donation, they would come before the Town Council.

Council Member Brooks made a motion to rescind the existing Donation Policy, which was put into effect September 11, 2007, to revert back to the previous system the Town President Pro Tem Coleman seconded the motion.

Discussion ensued and the motion was withdrawn.

After further comments from Town Council Members and staff, **Council Member Markin moved to amend the existing Donation Policy to include that donations for anything already included in the budget would be acceptable without Town Council approval; any donation more than $25,000 and NOT already included in the budget would require Town Council Approval. Council Member Brooks seconded the motion. On roll call, the motion carried unanimously.**

5. Report on Port of Palm Beach Expansion and Dredging Activities. [H. Paul Brazil, Director of Public Works]
(Moved Item X.B.5., to be heard after X.A.3.a., Lake Worth Inlet Sand Transfer Plant)

Town Manager Elwell referred to the memorandum to the Mayor and Town Council dated January 2, 2008, and included in the backup material, to provide an update on the Federal Feasibility Study for the Port of Palm Beach expansion and dredging activities of the Lake Worth Inlet. He noted that in the backup was a Public Notice that advised a public meeting would be held tomorrow afternoon, January 9, 2008, at the Port of Palm Beach, to gather information, define issues and concerns that might be associated with the expansion of the Lake Worth Inlet.

Mr. Elwell commented that the project was in the very early planning stages, and that he along with Town Engineer Bowser would attend the public meeting to raise, on behalf of the Town, the various concerns to ensure that they were addressed in the feasibility study.

Discussion ensued and public comment was received from the following persons:

Ned Barnes, Palm Beach Civic Association, advised the Civic Association has several committees to address these issues: the Transportation Committee and the Shore Protection Committee. He noted that both committees were mobilizing on this issue and that there would be representation from the Civic Association at tomorrow's public meeting, and that Mr. Frank and Mr. Victor would be in attendance as well. He commented that it was hoped a joint effort could be mounted to support the Town.

Dr. Sanford Kuvin, 149 E. Inlet Drive, commented that he agreed with President Pro Tem Coleman that there should be zero tolerance relative to this issue, and that he disagreed with the Mayor's concept of political acquiescence.

Alex Hufty, 154 Atlantic Avenue, thanked the Town Council for opposing the expansion and deepening/widening of the Inlet. She commented on the garbage on the beaches created by ships, which would only increase with the expansion of the Port.

The Town Council accepted the report provided by Town Manager Elwell regarding the Feasibility Study for the Port of Palm Beach Expansion and Deepening/Widening of the Lake Worth Inlet. Mr. Elwell was directed to enter the concerns of the Town into the record at the public meeting on January 9, 2008.

01/29/2010

XI. ORDINANCES

A. Second Reading

1. ORDINANCE NO. 23-07 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 118, Traffic and Vehicles, to Amend Section 118-14 to Include a Definition of Commercial Vehicle; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.
[Thomas G. Bradford, Deputy Town Manager]

Town Attorney Randolph read Ordinance No. 23-07 by title, on second reading, as printed above.

Council Member Brooks moved adoption of Ordinance No. 23-07 on second reading. The motion was seconded by Council Member Markin. On roll call, the motion carried unanimously.

2. ORDINANCE NO. 25-07 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Code of Ordinances of the Town of Palm Beach at Chapter 2, Administration, Article IV, Boards and Commissions, Division 2, Planning and Zoning Commission, at Section 2-326, So as to Provide That the Term of Each Member Shall Run until October 1 of the Year in Which Their Term Ends; 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. 25-07 by title, on second reading, as printed above.

Council Member Markin moved adoption of Ordinance No. 25-07 on second reading. The motion was seconded by Council Member Brooks. On roll call the motion carried unanimously.

3. ORDINANCE NO. 26-07 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 18, Buildings and Building Regulations, Article II, Administration of Planning, Zoning and Building, So As To

01/29/2010

Include A New Division 4 Titled Compliance With Town's Right-Of-Way Manual For Any Permits Issued Pursuant To Chapter 18; 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. 26-07 by title, on second reading, as printed above.

Council Member Markin moved adoption of Ordinance No. 26-07 on second reading. The motion was seconded by Council Member Coniglio. On roll call the motion carried unanimously.

4. ORDINANCE NO. 27-07 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Code of Ordinances At Chapter 2, Administration, Article V, Code Enforcement, Division 2, Code Enforcement Board, Section 2-439, Citation Fine Schedule, in the Manner Set Forth Herein; 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. 27-07 by title, on second reading, as printed above.

Council Member Brooks moved adoption of Ordinance No. 27-07 on second reading. The motion was seconded by Council Member Markin. On roll call the motion carried unanimously.

5. ORDINANCE NO. 29-07 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 118, Traffic and Vehicles, Article V, Valet Parking Regulations; Providing New Definitions and Modifying Existing Definitions; Providing Additional Prohibitions; Providing for New Permit Requirements and Modifying Existing Permit Requirements; Providing for New Permit Expiration Provisions; Providing for New Permit Application Procedures and Modifying Existing Permit Application Procedures; Establishing New Permit Fees and Requiring Permit Fees to Be Adjusted Annually Pursuant to Changes in the Consumer Price Index; Establishing Procedures for Use of Private Property in Conjunction with Temporary Valet Service Permits;

01/29/2010

Providing for Staging Requirements in Public Right-of-way for Temporary Valet Service Permits; Modifying Penalty Provisions for Violation of the Permit Terms; Establishing Revocation and Modification Procedures for Revocable Temporary Valet Services Permits; Increasing Permit Transfer Fees and Requiring an Annual Transfer Fee Adjustment; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.
[Thomas G. Bradford, Deputy Town Manager]

Town Attorney Randolph read Ordinance No. 29-07 by title, on second reading, as printed above.

Council Member Markin moved adoption of Ordinance No. 29-07 on second reading. The motion was seconded by Council Member Coniglio. On roll call the motion carried unanimously.

B. First Reading

1. ORDINANCE NO. 2-08 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 IV, Section 18-242, So as to Rescind Section 18-242 in its Entirety and to Incorporate by Reference Amendments, Corrections, Additions and Deletions to the Florida Building Code in the Manner and Form Attached; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.
[John Page, Director of Planning, Zoning, and Building]

Town Attorney Randolph read Ordinance No. 2-08 by title, on first reading, as printed above.

Council Member Brooks moved approval Ordinance No. 2-08 on first reading. The motion was seconded by Council Member Coniglio.

Director of Planning, Zoning, and Building John Page referred to his memorandum to the Mayor and Town Council dated January 2, 2008, and included in the backup material, to discuss Ordinance No. 2-08, which would modify Chapter 18 relating to Building and Building Regulations.

It was the consensus of the Town Council to amend the motion to approve Ordinance No. 2-08 with an amendment that projects begun without permits would incur a penalty of four times

01/29/2010

the fee, with staff allowed the discretion to lower the fee if a particular situation justified a lower penalty.

On roll call, the amended motion carried unanimously.

XII. DEVELOPMENT REVIEWS

A. Appeals

1. Appeal by the Bath and Tennis Club of an Administrative Decision Not to Allow Cooling Towers Eighteen Feet from the Side Property Line, 1170 South Ocean Boulevard. [James Brindell]
Deferred from the December 11, 2007, Town Council Meeting.
Request for Withdrawal Per Letter Dated December 21, 2007, from James R. Brindell.

Appeal by the Bath and Tennis Club was withdrawn.

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

None

3. Old Business- More Than 15 Minutes

a. SPECIAL EXCEPTION #9-2007 WITH SITE PLAN REVIEW AND VARIANCES The application of Andrew N. Adler, relative to property described as lengthy legal description on file; commonly known as 216 Colonial Lane; located in the R-B Zoning District. Request for special exception with site plan approval for a new two story single family home of 2,793 square feet, on existing portions of platted lots that total 6,150 square feet

01/29/2010

in area in lieu of the 10,000 square foot minimum required by the R-B zoning district. Variance request to permit a front yard setback for the first story of 21.83 feet in lieu of the 25 foot minimum required. Variance to permit a one car garage in lieu of the two car garage required. Variance request to permit a swimming pool with a rear setback of 4.33 feet in lieu of the 10 foot setback required. *Deferred from the July 10, 2007, August 14, 2007, and December 11, 2007, Town Council Meetings.*

Attorney Ron Kolins, on behalf of the applicant, provided an overview of the request.

Responding to President Pro Tem Coleman, Zoning Administrator Castro noted that the variances that were needed were corrected. Approval for the site plan review and special exception remained.

Mr. Castro commented that staff recommended that a yard trash area, in front of the property, and any easements needed in the future for undergrounding would need to be provided.

Motion made by Council Member Brooks, seconded by Council Member Coniglio that Special Exception #9-2007 with Site Plan Review should be granted based upon the finding that such grant will not adversely affect the public interest and that the applicable criteria set forth in Section 134-229 of the Town Code had been met, subject to conditions set forth by staff. On roll call, the motion carried unanimously.

b. SPECIAL EXCEPTION #10-2007 REVISED The application of Island Hotel, Inc., by Brad Bleefeld, Vice President and Treasurer; relative to property described as Palm Beach Hotel Condominium. Commercial Unit C-22, Per Condominium Declaration of 2/12/81; commonly known as 235 Sunrise Avenue, Unit C-22; located in the C-TS Zoning District. The application requests a special exception for a 200 seat synagogue on the top floor of the Palm Beach Hotel where a function room exists.

(i)Consideration of Proposed Declaration of Use Agreement. *Deferred from the December 11, 2007, Town Council Meeting.* **Request for Deferral to the February 12, 2008, Town Council Meeting Per Letter Dated December 21, 2007, From James R. Brindell.**

Special Exception #10-2007 Revised was deferred to the February 12, 2008, Town Council meeting.

c. SPECIAL EXCEPTION #14-2007 WITH SITE PLAN REVIEW AND VARIANCES The application of Janina Radtke Revocable Trust; relative to a property described as the northerly 100 feet of Lot 1, Singer Addition to Palm Beach, according to the plat thereof on file in the office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, as recorded in Plat Book 8, Page 81, together with the land lying directly east; commonly known as 476 S. Ocean Blvd.; located in the R-A Zoning District. The applicant requests special exception with site plan review to allow a single-family structure on an existing nonconforming lot of 15,001 square feet in area in lieu of the 20,000 square foot minimum required, and 100 feet in width in lieu of the 125 foot minimum required. In addition, a variance is requested to permit lot coverage of 29.12% in lieu of the maximum 25% allowed for the construction of an 8,556 square foot single family home. A variance is also requested to have a building height plane setback of 42.92 feet in lieu of the 58.67 foot minimum setback required. *Deferred from the November 13, 2007, Town Council Meeting.*

Special Exception #14-2007 with Site Plan Review and Variances was deferred to the February 12, 2008, Town Council meeting.

d. SPECIAL EXCEPTION#15-2007 WITH SITE PLAN REVIEW AND VARIANCES The application of Palm Beach Day Academy, Inc.; relative to property described as lengthy legal description on file; commonly known as 241 Seaview Avenue; located in the R-B Zoning District. The applicant requests a special exception with site plan review to modify a previous condition of approval on Special Exception#13-2002 with Site Plan Review to allow the portable trailer to remain through the 2008-2009 academic year (June 2009); special exception with site plan review is also being requested to build a 41 space gated parking lot on the west field for school parking and student drop off and pick up. Variances requested for the parking lot are as follows: a variance for a minimum overall landscaped open space of 46% in lieu of the minimum 55% required; a variance for a minimum drive aisle width of 13 feet for one-way 45-degree parking, in lieu of the 15 foot minimum required; a variance to allow off-street parking within the front setback of 9.8 feet in lieu

of the 25 foot minimum required. *Deferred from the December 11, 2007, Town Council Meeting.*
Request for Deferral to the February 12, 2008, Town Council Meeting Per Letter Dated December 21, 2007, From James R. Brindell.

Special Exception#15-2007 with Site Plan Review and Variances was deferred to the February 12, 2008, Town Council meeting.

e. SITE PLAN REVIEW #22-2007 WITH VARIANCES The application of Sirenity Investors, LTD (Kasia Adelstein, Director); relative to property described as the west 80 feet of Lot 1, Block 2 of "Villa Marine," according to the Plat thereof, as recorded in Plat Book 2, at Page 98 of the Public Records of Palm Beach County, Florida; commonly known as 106 Hammon Avenue; located in the R-C Zoning District. The applicant requests a Site Plan Review to renovate and convert a non-conforming two story, 12 unit multi-family building into a two-story, 4 unit building. The site plan is being modified by renovating the existing building in approximately the same footprint with the following modifications: 1) remove and replace all windows with impact windows and add decorative surrounds; 2)relocate roof access stair; 3) remove concrete walkways and replace with grass; 4) remove canopy, stairs and piers from front entrance; 5) relocate entrance from north side to west side of the building; 6) add a handicap ramp to west side of building; 7) remove roofed staircase on west side of building; 8) remove roofed staircase on east side of building; 9) add 47 square foot 2nd floor balcony on east side of building; and, 10) lowering the interior 1st and 2nd floors to create taller ceiling heights on both floors. Variances are requested to 1) allow a front yard setback of 5.67 feet in lieu of the 25 foot minimum required for architectural detail on parapet; 2) allow an east side yard setback of 8 feet in lieu of the 20 foot minimum required to enclose an existing covered entry and add a covered balcony and provide architectural details on parapet; and, 3) allow a west side yard setback of 8 feet in lieu of the 20 foot minimum required for balcony and architectural detail on the parapet and a west side yard setback of 17.5 feet in lieu of the 20 foot minimum required for the roof access stair. *Deferred from the December 11, 2007, Town Council Meeting.*

Attorney Maura Ziska, on behalf of the property owners at 106 Hammond Avenue, provided an overview of the request, and noted that the applicant would be replacing the flat roof with a pitched roof.

Staff Comments:

Zoning Administrator Castro commented that the applicant was seeking direction only, as the request would need to be re-advertised and a new application submitted and brought back for approval.

Responding to Attorney Ziska, Town Attorney Randolph advised that any motion that would be made would be for a deferral, and that the Town Council could inform the applicant, on an individual basis without a vote, whether or not the request was the right direction.

Council Member Brooks commented that last month the neighbors at 100 Worth Avenue were unhappy with the flat roof, and the applicant did a wonderful job by returning with a proposal for a pitched roof. He indicated that he could approve it when the applicant returned.

Responding to Council Member Coniglio, Council Member Brooks indicated that if the Architectural Commission did not approve it, the applicant would still have to come before the Council.

Town Attorney Randolph noted that a motion of deferral would not be necessary, as the request would be re-advertised and there was nothing to defer.

It was the consensus of the Town Council that the applicant was moving in the right direction and would submit a new application.

f. SITE PLAN REVIEW #23-2007 WITH SPECIAL EXCEPTIONS AND VARIANCES Application of L.G.Lima, LLC (Robert and Donna Lloyd George, Principles); relative to a property described as Lots 41 through 45, inclusive, Block 11, Revised Map of Royal Park Addition to Palm Beach, according to the map thereof as recorded in Plat Book 4, Page 1 of the Public Records of Palm Beach County, Florida; commonly known as 333 Peruvian Avenue; located in the C-TS Zoning District. Applicant requests Site Plan Review to construct a new three story 10,607 square foot building. The first floor is to include retail space and twenty-nine (29) parking spaces. The second floor is proposed to include a mix

of residential and office uses. The third floor is to include a fountain, two open pergolas, open deck and landscaping. Also, a request for special exception to permit a second floor, special exception to permit approximately 3,910 square feet of residential tenancy on the second floor. Request a variance to permit height of 28.67 feet in lieu of 25 feet maximum height permitted. A variance to permit backing isle for parking with width of 21.5 feet in lieu of 25 feet minimum required for ninety degree parking; a variance to permit parking spaces with a width of 8.5 feet in lieu of 9 feet minium required; a variance to permit five (5) stacked parking spaces to be serviced by valet parkers to comply with the requirement of 29 total parking spaces; a variance to permit front set back of 11 feet in lieu of 13 feet minimum required; a variance to permit third floor use for an elevator, fountain, open deck and open pergolas in lieu of the two story maximum permitted; a variance to permit total floor area of 22,230 square feet in lieu of 15,000 square feet permitted; a variance to permit side yard setback on both side yards of 5 feet in lieu of 6.84 feet minimum required; a variance to permit balcony on the west side with setback of 1 foot in lieu of 2.84 foot minimum required and on the east side with setback of 1 foot in lieu of 2.84 minimum required; and a variance to permit no commercial loading zone in lieu of one required. *Deferred from the December 11, 2007, Town Council Meeting.* **Request for Deferral to the February 12, 2008, Town Council Meeting Per Letter Dated December 19, 2007, From M. Timothy Hanlon.**

Site Plan Review #23-2007 with Special Exceptions and Variances was deferred to the February 12, 2008, Town Council meeting.

4. New Business- More Than 15 Minutes

None

D. Other

1. Report Requesting "Prioritization of Planning Function" as Recently Compiled by the Planning and Zoning Commission.
[John Page, Director of Planning, Zoning, and Building

Planning, Building, and Zoning Director John Page, reported on the "Prioritization of Planning Function" that was compiled by the Planning and Zoning Commission.

Motion made by Council Member Brooks to direct staff to pursue planning tasks as resources allow.

President Pro Tem Coleman disagreed with part of the key item, "Conduct market study of demand by Palm Beachers."

Council Member Coniglio made the following comments:

- A list would be presented for prioritization in April;
- She needed to know the cost of each key issue; and
- She was reluctant to support any items, unless the cost was within budget.

Amended motion made by Council Member Brooks to approve that staff pursue planning tasks as resources would allow, with the exception of "Conduct market study of demand by Palm Beachers."

Motion failed for lack of a second.

Council Member Markin commented that several of the items were similar and could be duplicates, and that the requests were not clear.

Responding to Planning, Building, and Zoning Director John Page, President Kleid recommended that a complete listing of the planning priorities including resources and costs, along with the Planning and Zoning Commission's other prioritization of the actual zoning study items be brought back to the Council, in April, according to the schedule for zoning study item review.

XIII. ANY OTHER MATTERS

There were none.

XIV. ADJOURNMENT

There being no further discussion, the January 8, 2008, Town Council meeting was adjourned at 5:05 p.m.

APPROVED:

Richard M. Kleid
Town Council President

ATTEST:

Susan A. Eichhorn
Town Clerk

01/29/2010