TOWN OF PALM BEACH

Office of the Town Clerk

MINUTES OF THE REGULAR TOWN COUNCIL MEETING HELD ON THURSDAY, MARCH 14, 2013, AND CONTINUED TO TUESDAY, MARCH 19, 2013

Clerk's Notes: 1) *All Items Indicated with a "*" were Heard on March 19, 2013.*
2) *The continuation to March 19, 2013, was held in two parts to allow for a previously scheduled Special Town Council meeting at 2:30 p.m.*

I. CALLS TO ORDER AND ROLL CALLS

The Regular Town Council meeting was called to order on Thursday, March 14, 2013, at 10:00 a.m., in the Town Council Chambers. On roll call, all of the elected officials were found to be present.

The continuation of the Regular Town Council meeting of March 14, 2013, was reconvened Tuesday, March 19, 2013, at 1:30 p.m., in the Town Council Chambers. On roll call, all of the elected officials were found to be present.

The continuation of the Regular Town Council meeting of March 14, 2013, on Tuesday, March 19, 2013, and recessed at 2:16 p.m., was reconvened Tuesday, March 19, 2013, at 3:27 p.m., in the Town Council Chambers. On roll call, all of the elected officials were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

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

III. PRESENTATIONS

A. Presentations by Applicants for Architectural Commission

The following applicants provided presentations to the Town Council:

Martin D. Gruss
Ken Karakul
Michael B. Small

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B. Presentations by Applicants for Landmarks Preservation Commission

The following applicants provided presentations to the Town Council:

Jacqueline Albarran
Kevin Asbacher
Edward A. Cooney
Leslie Diver
Patrick Killian
Elizabeth Marshall
Dudley L. Moore, Jr.
Penelope D. Townsend

C. Presentations by Applicants for Retirement Board of Trustees

The following applicants provided presentations to the Town Council:

Robert Garvey
Laurence Goldfein
Richard Krock
James McCartney Wearn

D. Report from Sterling Organization Regarding Royal Poinciana Playhouse

Chief Operating Officer Greg Moross announced that Sterling Palm Beach, LLC has signed a Letter of Intent for a 22-year lease, with a 20-year option, for the Royal Poinciana Playhouse. He thanked Council President Rosow for his assistance in mediating and negotiating the process, and stated that they are working diligently to sign the lease.

Council President Rosow thanked Paul Leone, Breakers President, for offering meeting space for the negotiations. Mr. Rosow recognized five representatives of the new tenant, the National Arts Institute (NAI), and provided their backgrounds: Chairman and Lead Donor Kenneth Ohrstrom, Executive Producer Karen Poindexter, Executive Producer Elaine Blake, Artistic Director Renee Morrison, and Executive Director Pamela Stark Thomas.

Pamela Stark Thomas stated that the NAI is thrilled to announce that, together with the Sterling Organization, they have come to a letter of intent agreement for the Royal Poinciana Playhouse. She recognized and thanked Council President Rosow for his guidance toward this goal. She stated that the next step for the NAI is to finalize the lease. Then the NAI team will begin planning, fundraising, and presenting many naming rights opportunities. She reintroduced Chairman and Lead Initial Donor Kenneth Ohrstrom, Executive Producer Karen Poindexter, and Arts Trustee Renee Morrison. She added that it is this exceptional team that has attracted the first $10 million pledge.

Responding to Council President Pro Tem Wildrick, Pamela Stark Thomas stated that the NAI is eager to finalize the lease. Once that is done, we will take the initial $10 million pledge, and continue fundraising for the remaining funds needed to bring the Playhouse up to Code and the standards that are required to attract renowned celebrities. She stated that NAI does not have a definite timeframe yet; but, that they are going to move forward as quickly as they can. It will take the next couple of years to put all this together.

Council President Pro Tem Wildrick thanked Council President Rosow, the NAI, and the Sterling Organization. He stated that this is a wonderful thing, not just from a cultural standpoint, but as the beginning of a healing of a rift in the Town.

Mayor Coniglio echoed Council President Pro Tem Wildrick's comments and wished NAI the best of luck.

Council Member Kleid stated that he is excited about the opportunities that this is going to afford the Town, and that he is happy to see that there is such a preeminent group behind this project. He added that it is time the healing begins, and thanked Council President Rosow for his participation in this process.

Council Member Diamond asked if NAI had any idea what the total budget will be to restore the Playhouse and bring it up to Code.

Pamela Stark Thomas stated that they are looking at a minimum initial investment of $15 million, and that they will grow from there. As we get the money, we will do the work. This will be something very unique and deserving of Palm Beach in so much as it will incorporate state of the art technology and be high quality throughout.

Council Member Diamond stated that the Town Council should recognize the tremendous contribution of Council President Rosow for his participation.

Council President Rosow stated that, when the parties entered into the discussions, he told both sides that, in order for this to be successful, there had to be pain on both sides. Each side had to give. He stated that both Sterling Organization's and NAI's representatives gave back and forth, and that they were a delight to work with. Both sides wanted to get this done. The lease is next. It's not that complicated. I've met with our Building Officials to go over the plans that have been shared with them.

IV. COMMENTS OF MAYOR GAIL L. CONIGLIO

Mayor Coniglio expressed her ongoing gratitude to the community. She spoke regarding the opening of the Fitz Eugene Dixon Education Building at the Society for the Four Arts.

She then reported on her efforts regarding the closure of the Flagler Memorial Bridge. Her goals have been to use all available Town resources to keep the Flagler Bridge open and, in the event it must be closed, prepare a mitigation plan to minimize the impact of the Bridge closure and educate the community on this issue. She thanked the Governor's Office and the Florida Department of Transportation (FDOT) officials for their attentive responses. She stated that she met with the Governor on Monday, who reiterated his commitment to a safe solution. She thanked the Town Council for their suggestions and directions to leave no stone unturned to find a positive outcome for this debacle. She thanked Town Staff who have worked overtime to implement measures to relieve the anxiety regarding traffic, and anticipating potential problems, to create safe passage and emergency medical access. Regarding education, she remains cautiously optimistic. FDOT, PCL Construction, and their engineers need to be accountable for their analysis and actions. She thanked the active residents and the Civic Associations for their extended outreach to be a part of these positive results. On March 19, 2013, FDOT Secretary Prasad will be here personally to present the latest information. There are questions that need to be answered. They need to offer their engineering analysis and data to affirm the reinforcement in light of two failures following minimal construction efforts. We need to know the new timeline and the impact of that extended completion schedule. What is their calculated risk for management of this bridge construction knowing that a full closure will seriously devastate our community for one, possibly two, seasons? She asked the residents to attend the meeting and to be a part of the discussion. She stated that, as a community, we need to know where we're going and how to get there for the next year and a half to three years.

V. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

Council President Pro Tem Wildrick stated that, per the Town's Charter, the spokesperson for the Town is the Mayor. While everyone has the right to speak and try to help, it is important that we speak with one voice; and, that in order to keep from sending mixed messages, we should first try to work through our Mayor. As a small group of people, we can work better as a team.

Council Member Diamond stated that the most important thing to consider during the Flagler Memorial Bridge closure is public safety. He added that the Public Safety Committee met last week, in which Director of Public Safety Blouin and his Fire-Rescue and Police command staff gave a presentation on their plans and efforts to ensure public safety during the bridge closure. He stated that the community should be assured that emergency personnel have the ability to get people to the hospitals. The plans include clearing lanes, light synchronization to I-95, and increased use of the Trauma Hawk. He added that these plans are also on the Town's website.

VI. COMMUNICATIONS FROM CITIZENS

William Cooley, 8 Windsor Court, spoke regarding the Royal Poinciana Playhouse and expressed his gratitude to Council President Rosow for his facilitation of the parties coming to an agreement. He added congratulations to Patrick Flynn and all those who worked to keep the Playhouse from being demolished.

Joanne Warshaver, 223 Seminole Avenue, also congratulated those who worked on finding a tenant for the Playhouse, and spoke regarding the valet parking issues on Seminole Avenue.

John Grosskopf, General Manager Palm Beach Towers, thanked President Rosow for his efforts in the Playhouse negotiations. He suggested that there should be a turnaround lane at the top of the Royal Palm Bridge so that traffic would not have to back up off the bridge. This should be considered for the new Flagler Bridge as well.

Gregg Beletsky, President Worth Avenue Association, spoke regarding the Association's pet parade contest and fundraising event held on March 9, 2013. He stated that he was not aware that a charitable solicitation permit was required, and requested a one-time waiver of the late fees.

Motion was made by Council Member Diamond, and seconded by Council Member Kleid, to approve a request from the Worth Avenue Association for a one-time waiver of the charitable solicitation permit late fees for their Pet Parade Contest and Fundraising Event held on March 9, 2013. On roll call, the motion carried unanimously.

Simon Taylor, 264 Seminole Avenue, congratulated everyone involved in finding a tenant for the Playhouse.

Gwen Asplundh, 230 El Pueblo Way, echoed the comments of the Mayor regarding the bridge closure and requested that the Playhouse still maintain its charm, even with all of the new technology.

Lory Volk, representing the Volk Foundation, thanked everyone involved in finding a tenant for the Playhouse.

Laurence McNamara, 422 N. Lakeside Drive, Lake Worth, FL, thanked President Rosow for his efforts in the Playhouse negotiations.

Etonella Christlieb, 200 Everglades Avenue, thanked President Rosow and all who participated in finding a tenant for the Playhouse.

VII. APPROVAL OF AGENDA

The following changes were made to the Agenda:

MOVED: Item No. X.C.2.a. (Resolution No. 40-2013) was moved to the first item after the Consent Agenda.

MOVED: Item No. XI.A.1.a. (Flagler Bridge Update) was moved to the second item after the Consent Agenda.

MODIFIED: A revised set of minutes for the February 13, 2013, Town Council meeting was distributed to the Town Council after publication of the agenda; and, that it would be those minutes that will be up for approval.

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

VIII. CONSENT AGENDA

Motion was made by Council Member Diamond, and seconded by Council Member Pucillo, to approve the Consent Agenda, as amended above. On roll call, the motion carried unanimously.

A. MINUTES

1. MINUTES: FEBRUARY 12, 2013
Approval of the Minutes of the Town Council Meeting.

2. MINUTES: FEBRUARY 13, 2013
Approval of the Minutes of the Town Council Meeting. – ***Approved the revised set of minutes provided to the Town Council after publication of the agenda.***

3. Approval of Major Matters Considered by the Architectural Commission at its Meeting on February 27, 2013.

B. RESOLUTIONS

1. RESOLUTION NO. 7-2013 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Adopting the Town of Palm Beach Fee Schedule, and Providing an Effective Date. [Susan A. Owens, Town Clerk]

2. RESOLUTION NO. 9-2013 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida Approving an Agreement with the Palm Beach County Property Appraiser and an Interlocal Agreement with the Tax Collector of Palm Beach County for Services and Costs Associated with the Non-Ad Valorem Assessments to

Be Implemented for the Everglades Island Underground Utilities Assessment Area and Authorizing the Mayor to Execute the Agreements on Behalf of the Town. [Thomas G. Bradford, Deputy Town Manager]

3. RESOLUTION NO. 32-2013 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Assessing a Lien Against the Property at 211 Caribbean Road, Palm Beach, Florida 33480, in the Amount of $1,835.00, 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]

4. RESOLUTION NO. 33-2013 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Contract to Tetra Tech, Inc., in the Amount of $107,679.96 to Implement Mid-Town Coral Nursery Mitigation Through the Port of Palm Beach Slip Number 3 Orphan Coral Relocation Project, Establishing a Budget of $115,000 for Said Services.
[H. Paul Brazil, Director of Public Works]

5. RESOLUTION NO. 34-2013 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Construction Contract to Alen Construction Corp. Inc., in the Amount of $107,400 for the Australian and Brazilian Dock House Retrofitting and Structural Repairs, Establishing a Construction Phase Budget of $120,000 for Said Services.
[H. Paul Brazil, Director of Public Works]

6. RESOLUTION NO. 35-2013 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Construction Contract to Loveland Electric, Inc., in the Amount of $96,696 for the Australian Dock Electrical Modifications, Establishing a Construction Phase Budget of $110,000 for Said Services. [H. Paul Brazil, Director of Public Works]

7. RESOLUTION NO. 36-2013 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Contract to Kimley-Horn and Associates, Inc., in the Amount of $25,275 for Town Docks Engineering and Inspection Services, Establishing a Budget of $28,000 for Said Services.
[H. Paul Brazil, Director of Public Works]

8. RESOLUTION NO. 37-2013 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Purchase of Two 45 Horsepower Pumps and Accessory Items from Xylem

Water Solutions USA, Inc. in the Amount of $65,477 and Establishing an Overall Budget of $72,000. [H. Paul Brazil, Director of Public Works]

9. RESOLUTION NO. 38-2013 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Award of Bid No. 2013-05 to CDW Government LLC for the Purchase of Computers and Equipment in the Amount of $159,337.83 and Establishing a Budget of $180,000 for Purchases in Fiscal Year 2013 and Authorizing the Town Manager to Execute this Purchase on Behalf of the Town. [Thomas G. Bradford, Deputy Town Manager]

10. RESOLUTION NO. 45-2013 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing State Grant Renewal of FDEP Contract No. 11PB3, Amendment No. 2, Between the State of Florida Department of Environmental Protection and the Town of Palm Beach under the Bureau of Beaches and Coastal Systems Florida Beach Management Funding Assistance Program for the South End Palm Beach (Reach 8) Restoration Project, and Authorizing the Town Council President to Execute Same on Behalf of the Town. [H. Paul Brazil, Director of Public Works]

C. OTHER

1. Approval of Ranking of Proposals for Par 3 Restaurant Operator and Authorization to Negotiate a Contract. [Jay Boodheshwar, Director of Recreation and Special Projects]

IX. BOARD/COMMISSION ANNUAL REPORT

A. Landmarks Preservation Commission. *
[Edward Austin Cooney, Chair, and John Page, Director of Planning, Zoning, and Building]

Chairman Cooney provided an overview of the Landmarks Preservation Commission's Annual Report.

Discussion ensued regarding LPC decision appeals and the effect of the three-strike conflicts of interest rule for Commission Members.

By consensus of the Town Council, the Report was accepted.

X. COMMITTEE REPORTS

A. Royal Poinciana Way Committee Report. [Michael J. Pucillo, Chair]
TIME CERTAIN: NOT BEFORE 11:00 AM

Mayor Coniglio and Council President Pro Tem Wildrick recused themselves, left the dais, and provided a Memorandum of Voting Conflict Form 8b to Town Clerk Owens.

Chairman Pucillo thanked the members of the Committee for their hard work and spoke regarding the process the Committee followed, historic preservation and contributing factors, parking, density, permitted uses, variance prohibitions, and the Comprehensive Plan. He also provided illustrations of all of the properties that could be involved in the PUD-5 zoning option, and an overview of the Royal Poinciana Way Committee's Report. He added that he agreed with a suggestion from yesterday that a performance bond provision be required; and, asked the Planning and Zoning Commission to consider that in their review.

Susan Markin, Royal Poinciana Way Committee Member, thanked the other Committee Members for their work. She stated that there were some good things that came out of the Committee's work and provided an overview of those portions of the Committee's recommendations that she did not agree with.

John Mashek, Preservation Foundation, spoke in support of the Committee's recommendations.

Mary Watkins, 990 Adam Road, Director Palm Beach Civic Association, stated that the Association is in support of the Committee's recommendations and that it also supports sending the Committee's recommendations to the Planning and Zoning Commission for further review.

Laurel Baker, Executive Director Palm Beach Chamber of Commerce, stated that the Palm Beach Chamber of Commerce is in support of the Committee's recommendations.

Rachel Lorentzen, 216 Garden Road, spoke in opposition to the Committee's recommendations.

William Cooley, 8 Windsor Court, spoke in opposition to the Committee's recommendations.

Bob Moore, 420 Santa Fe Road, West Palm Beach, FL, representing the Palm Beach Civic Association, spoke in support of some of the Committee's recommendations and requested that the Committee's recommendations be sent to the Planning and Zoning Commission for further review.

Leslie Evans, 135 Seminole Avenue, spoke in support of the Committee's recommendations.

David Barton, 216 Jamaica Lane, spoke regarding parking, long-term planning, and traffic.

Jere Zenko, 232 Tangier Avenue, spoke in support of requiring a performance bond and shortening the allowable time for property owners to elect this option.

Jim Palmer, 239 Sanford Avenue, spoke regarding his wife's shop on Royal Poinciana Way and the effects of the Flagler Memorial Bridge closure on the businesses in the area.

Laurence McNamara, 422 N. Lakeside Drive, Lake Worth, FL, encouraged the Town Council to listen to the concerns of the public and to ensure that the approval process is democratic.

Lory Volk, 206 Phipps Plaza, expressed her concerns with the Committee's recommendations.

Bobbie Lindsey Buck, 212 Caribbean Road, expressed her concerns with the Committee's recommendations and suggested that the expert that assisted the Committee be brought back to address the Planning and Zoning and Architectural Commissions in their reviews of the Committee's recommendations.

Larry Goldberg, 3360 S. Ocean Boulevard, spoke in support of the Committee's recommendations and regarding the abandoned gas station on Royal Poinciana Way.

Rachel Lorentzen, representing Neighborhood Alliance of Palm Beach, spoke regarding the Alliance's opposition to the Committee's recommendations.

Discussion ensued regarding density, residential use, consolidation, where new units can be constructed, selection of the Committee Members, the Comprehensive Plan, issues regarding constitutional taking and the Bert J. Harris Private Property Rights Protection Act, the Flagler Memorial Bridge closure, parking requirements, Code requirements for building height, diversity of height aesthetics, facades and streetscapes, and a Zoning in Progress.

Motion was made by Council Member Kleid, and seconded by Council Member Pucillo, to accept the Report of the Royal Poinciana Way Committee and to send the Committee's recommendations to the Planning and Zoning Commission for further review. On roll call, the motion carried 3-1, with Council Member Diamond dissenting, and Council President Pro Tem Wildrick recused.

By consensus of the Town Council, the Planning and Zoning Commission was also directed to consider a sunset provision with respect to the Flagler Memorial Bridge closure.

B. Administrative and Personnel Committee Meeting of February 25, 2013. *

[Richard M. Kleid, Chair]

Chairman Kleid provided an overview of the Administrative and Personnel Committee Meeting of February 25, 2013, Report.

Motion was made by Council Member Kleid, and seconded by Council Member Diamond, to approve the Administrative and Personnel Committee's recommendation to affirm the Grievance Resolution Board's decision to uphold the termination of William Eaton. On roll call, the motion carried unanimously.

Motion was made by Council Member Pucillo, and seconded by Council Member Diamond, to approve the modified rules of procedure for Grievance Resolution Board appeals. On roll call, the motion carried unanimously.

Motion was made by Council President Pro Tem Wildrick, and seconded by Council Member Diamond, to accept the Administrative and Personnel Committee meeting of February 25, 2013, Report. On roll call, the motion carried unanimously.

C. Public Works Committee Meeting of February 26, 2013. *
[Michael J. Pucillo, Chair]

Chairman Pucillo provided an overview of the Public Works Committee Meeting of February 26, 2013, Report.

Town Manager Elwell spoke regarding the wastewater settlement agreement with the City of Lake Worth, and reported that the Town will be receiving $262,406 from the settlement.

Director of Public Works Brazil provided an update on the biosolids pelletizer, and spoke regarding the effects of the Flagler Bridge closure on the ACIP and the replacement of the roof on the south fire station.

1. <u>RESOLUTION NO. 39-2013</u> A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Design Services Contract to Bridges Marsh & Associates, in the Amount of $9,400 for Replacing the Roof on the South Fire Station and Establishing a Design Bid Phase Budget of $10,000. [H. Paul Brazil, Director of Public Works] *

Motion was made by Council Member Diamond, and seconded by Council Member Pucillo, to approve Resolution No. 39-2013. On roll call, the motion carried unanimously.

2. Lake Worth Sub-Regional Sewage System.
[H. Paul Brazil, Director of Public Works]

a. RESOLUTION NO. 40-2013 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving an Interlocal Wastewater Service and Wastewater Facilities Cost Sharing Agreement With the City of Lake Worth for Wastewater Transmission, Treatment and Disposal and a Stipulated Settlement Agreement, and Authorizing the Mayor to Execute Said Agreements.

Motion was made by Council Member Diamond, and seconded by Council Member Kleid, to approve Resolution No. 40-2013. On roll call, the motion carried unanimously.

b. RESOLUTION NO. 41-2013 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Town Manager to Notice to the City of Lake Worth of the Town's Intent to Withdraw From the Interlocal Wastewater Service and Wastewater Facilities Cost Sharing Agreement and to Negotiate a Bulk Wastewater Disposal Agreement with the City of Lake Worth. *

Motion was made by Council Member Diamond, and seconded by Council Member Pucillo, to approve Resolution No. 41-2013. On roll call, the motion carried unanimously.

c. RESOLUTION NO. 42-2013 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Towns of South Palm Beach and Manalapan to Tie Into a Town of Palm Beach Force Main; Authorizing the Town Manager to Have Prepared an Interlocal Agreement and Bulk Wastewater Disposal Agreement and to Bring Said Agreement Back to the Town Council for Approval. *

Motion was made by Council Member Diamond, and seconded by Council Member Kleid, to approve Resolution No. 42-2013. On roll call, the motion carried unanimously.

Town Manager Elwell requested authorization for Staff to modify the completion schedule of the FY 2013 Accelerated Capital Improvement Program (ACIP) Projects. *

Motion was made by Council Member Diamond, and seconded by Council Member Pucillo, to authorize Staff to modify the completion schedule of the FY 2013 Accelerated Capital Improvement Program (ACIP) Projects. On roll call, the motion carried unanimously.

Motion was made by Council Member Pucillo, and seconded by Council Member Diamond, to accept the Public Works Committee meeting of February 26, 2013, Report. On roll call, the motion carried unanimously.

D. Public Safety Committee Meeting of March 5, 2013. *
[Robert N. Wildrick, Chair]

Chairman Wildrick provided an overview of the Public Safety Committee Meeting of March 5, 2013. He reported that Staff presented the Committee with two action plans in the event Flagler Bridge is closed. He added that both are available on the Town's website.

Town Manager Elwell stated that the written Report for this meeting will be on next month's Town Council agenda.

XI. REGULAR AGENDA

A. Old Business

1. Flagler Memorial Bridge Matters.

a. Flagler Memorial Bridge Project Update.
[Ryan Hamrick, P.E., Project Manager, PCL Civil Contractors, Inc.]

Ryan Hamrick, Project Manager, PCL Civil Contractors, provided an update on the construction of the new Flagler Memorial Bridge.

b. Town Action Items.

(1) RESOLUTION NO. 43-2013 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Department of Public Works Engineering Division Standard Applicable to Public Rights-of-Way and Easements, Amending Section 2.24, Construction Hours and Section 3, Regulations Pertaining to Telecommunication Providers; Providing an Effective Date.
[H. Paul Brazil, Director of Public Works] *

Item no longer needed; therefore, it was withdrawn.

(2) EMERGENCY ORDINANCE NO. 1-2013 An Emergency Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 42, Article V, of the Town Code of Ordinances at Section 42-199, Hours for Construction Work, So as to Provide That the Town Council May, by Resolution, Temporarily Amend the Hours for Construction Work Specified in

Section 42-199 in the Interest of the Public Health, Safety and Welfare of the Residents of the Town; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.

[John C. Randolph, Town Attorney] *

Motion was made by Council Member Diamond, and seconded by Council Member Kleid, to adopt Emergency Ordinance No. 1-2013. On roll call, the motion carried unanimously.

Clerk's Note: Based upon the FDOT report that the Flagler Bridge will not be closing, this item was decided later in the meeting to no longer be of an emergency nature; therefore, it will be scheduled for second reading on April 9, 2013.

(3) RESOLUTION NO. 44-2013 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Modifying the Hours for Construction Work Set Forth in Chapter 42, Article V, Section 42-199, So as to Provide That for a Limited Period of Time, Beginning April 1, 2013 Continuing to November 15, 2014, Unless Sooner or Later Determined by the Town Council, the Hours for Construction as Set Forth in Section 42-199 Shall Be Amended So as Provide That Construction Work Shall Not Begin until the Hour of 7:00 a.m. and Shall Cease at the Hour of 4:00 p.m. Except Saturday, Sunday, All Legal Holidays and the Friday Immediately after Thanksgiving When All Construction Work Is Prohibited; Providing an Effective Date.

[John C. Randolph, Town Attorney] *

Item no longer needed; therefore, it was withdrawn.

(4) Other Actions as May be Recommended by the Town Manager. [Peter B. Elwell, Town Manager] *

Town Manager Elwell recommended that the Town Council authorize the contractors working on the Flagler Bridge to work 24 hours a day, 7 days a week, as needed.

Motion was made by Council Member Diamond, and seconded by Council Member Kleid, to authorize the contractors working on the Flagler Bridge to work 24 hours a day, 7 days a week, as needed. On roll call, the motion carried unanimously.

B. New Business

1. Woods Hole Group's Draft Report and Recommendations for Long Term Coastal Protection Program.
   [Bob Hamilton, Woods Hole Group]
   TIME CERTAIN: NOT BEFORE 2:00 PM

Bob Hamilton, Woods Hole Group (WHG), spoke regarding the scope of their work and provided an overview of the key elements of WHG's draft report and recommendations.

Leslie Fields, WHG, provided an overview of the technical analysis used to create the draft report and recommendations.

Responding to Council Member Diamond regarding cost estimates, Bob Hamilton stated that they are looking for guidance from the Town Council as to its priorities first. Cost estimates will be included in the final report.

Discussion ensued regarding the beach conditions of the Sloan's Curve area to Reach 8, the need for an Environmental Impact Study for the beaches in the south end, declaring Reach 8 as "Critically Eroded", beach erosion estimates for storms, ranking the projects by priority, using groins, rehabilitating dunes, mining sand from the sandbar, hotspots, buildings on the south end of Town where their beaches have eroded away, Reaches 1-7, the mid-Town and north end beaches, dredging, the effects of wave action, and program feasibility and costs.

Council President Rosow summarized the Town Council's concerns and directed that WHG include them in its final report, as follows:

1) WHG identified four items that were rated 3, 11 items that were rated 2, and 26 items were rated 1. The Council directed WHG to rank and prioritize those items and to identify how the Town would move forward with them. In conjunction with that, WHG was directed to validate the costs that the Shore Protection Board identified with those projects.
2) WHG was directed to determine when Reach 1's template will be filled.
3) WHG was directed to determine who owns the groins along Reaches 3 and 4 and which need to be rehabilitated. WHG was directed to provide an answer as to why geo-textile dunes were not included in the draft report as an alternative dune solution, and whether such dunes are feasible. They were also directed to address why the Town can't mine the sandbars offshore, especially in Reach 7.
4) WHG was directed to address the issue of waves breaking over the Palm Beach Country Club seawall, which is killing the grass in front of it.

Council Member Kleid added that he would like WHG to also address why Reach 8 is not considered a "critically eroded" beach.

Council President Rosow added that WHG should also address the costs and timeframe associated with the Environmental Impact Study.

Council Member Diamond spoke regarding "hot spots" in the Town and requested that WHG include their recommendations for those locations in the report.

Carla Herwitz, 2275 S. Ocean Boulevard, provided comments from the Karen Erickson Report and Save our Shores expressing their concerns regarding the Coastal Management Program.

Ned Barnes, President Palm Beach Civic Association, along with Ellen Tansey, 2850 South Ocean Boulevard, legal counsel for the Citizens Association of Palm Beach, stated that both Associations have joined together on shore protection and coastal management issues. He applauded the Town Council, the Shore Protection Board, and Staff for their work on this Program.

Ellen Tansey, 2850 South Ocean Boulevard, legal counsel for the Citizens Association of Palm Beach, congratulated Staff, the Town Council, and the past and present Shore Protection Board members for their work on this Program. She spoke in support of the WHG's Report, so far, and expressed some concerns and questions that she would like addressed in the final report.

Sanford Kuvin, 149 E. Inlet Drive, expressed his concerns regarding the draft report, the Army Corp of Engineers' projects, the sand transfer plant, sand quality, and the beach renourishment template.

David Herwitz, 2275 S. Ocean Boulevard, spoke in support of the Karen Erickson Report, in opposition to Staff's recommendations, and stated that the needs of property owners should come before the needs of turtles.

Peter Petty, West Palm Beach, FL, spoke regarding the effects of several storms that have hit the Town's beaches recently.

George Borey, 2275 S. Ocean Boulevard, expressed the concerns of the residents of his condominium and his concerns regarding the beach at Phipps Ocean Park.

John Rodney Blair, 2275 S. Ocean Boulevard, expressed his concerns regarding the construction of seawalls.

Harvey Kinzelberg, 260 N. Ocean Boulevard, speaking on behalf of the homeowners along N. Ocean Boulevard from Everglades Avenue to Wells Road, expressed his concerns regarding the seawalls in this area.

Larry Goldberg, 3360 S. Ocean Boulevard, spoke regarding beach restoration options, regulations, funding, and fish habitats.

Discussion ensued regarding the issues and costs of proceeding incrementally or going full speed ahead, federal regulations, partnering with the Army Corp of Engineers, hurricanes, short-term versus long-term plans, and funding.

Richard Raffo, 44 Cocoanut Row, spoke regarding the groins in other areas of the State.

Town Manager Elwell noted that the Shore Protection Board is meeting in two weeks, and that they are reviewing WHG's Report and will be providing some additional input.

By consensus of the Town Council, it was agreed that the Town Council will hear from the Shore Protection Board before WHG's Final Report.

By consensus of the Town Council, Woods Hole Group was directed to finalize its report and recommendations, including the prioritization and costs of the projects, and collaborate with Town Staff to propose a 10-year Coastal Protection Plan, with cost estimates, for review at a future Town Council meeting.

Council President Rosow stated that the Town Council may schedule a special meeting in May to hear WHG's Final Report. He also discussed the Shore Protection Board's recommendations, funding, seawalls, recent hurricanes, and individual shore protection efforts.

2. Adoption of Top Townwide Budget Priorities for FY14. *
[Peter B. Elwell, Town Manager]

Town Manager Elwell provided an overview of the Townwide budget priorities for FY14 as identified by the Town Council.

Motion was made by Council Member Diamond, and seconded by Council Member Pucillo, to adopt the top Townwide budget priorities for FY14. On roll call, the motion carried unanimously.

3. Review of Rules Regarding Board/Commission Members' Conflicts of Interest.
[William J. Diamond and Richard M. Kleid Council Members] *

Council Member Diamond expressed his concerns about limiting the number of conflicts of interest for Board and Commission Members to three (the "3-Strike Rule"), and recommended that this issue be sent to ORS for review.

Discussed ensued regarding the history of the 3 Strike-Rule and its effect on attracting and retaining board and commission members, requiring architects who serve on the Landmarks Preservation and Architectural Commissions to be Florida certified, board and commission term limits, and appointment of the board and commission chairs by the Town Council.

Motion was made by Council Member Pucillo, and seconded by Council Member Wildrick, to refer the following items to ORS:

1. **Advisory board and commission term limits;**
2. **Certification requirements for architects serving on ARCOM or LPC; and,**
3. **The 3-Strike Rule regarding conflicts of interest.**

On roll call, the motion carried unanimously.

4. Architectural Commission Appointments.
[John Page, Director of Planning, Zoning, and Building]

Clerk's Note: The Architectural Commission and the first four Landmarks Preservation Commission appointments were approved at the same time.

Motion was made by Council Member Diamond, and seconded by Council Member Kleid, to ratify the following Architectural Commission appointments:

- **Re-appointed as Regular Members: Kenn Karakul and Robert J. Vila**
- **Re-appointed as an Alternate Member: Martin G. Gruss**
- **Appointed as an Alternate Member: Michael B. Small**

On roll call, the motion carried unanimously.

5. Landmarks Preservation Commission Appointments.
[John Page, Director of Planning, Zoning, and Building]

Clerk's Note: The Architectural Commission and the first four Landmarks Preservation Commission appointments were approved at the same time; see above for motion and votes.

The following Landmarks Preservation Commission appointments were ratified:

- **Re-appointed as Regular Members: Edward A. Cooney, Dudley L. Moore, Jr., and Jacqueline Albarran**

- **Appointed as a Regular Member: Penelope D. Townsend**

Clerk's Note: A separate motion was required for the below appointment as there was a tie for this position.

Motion was made by Council Member Diamond, and seconded by Council President Pro Tem Wildrick, to ratify the appointment of Patrick Killian as an Alternate Member to the Landmarks Preservation Commission. On roll call, the motion carried unanimously.

6. Retirement Board of Trustees Appointments.
[Danielle Olson, Director of Human Resources]

Motion was made by Council Member Diamond, and seconded by Council Member Kleid, to ratify the re-appointment of James McCartney Wearn and the appointment of Robert Garvey to the Retirement Board of Trustees. On roll call, the motion carried unanimously.

XII. <u>ANY OTHER MATTERS</u> – None

XIII. <u>RECESSES AND ADJOURNMENT</u>

The March 14, 2013, regular Town Council meeting was recessed at 4:59 p.m. Council President Rosow announced that this meeting will reconvene on Tuesday, March 19, 2013, at 1:30 p.m., in the Town Council Chambers.

The March 14, 2013, regular Town Council meeting, continued to Tuesday, March 19, 2013, was recessed at 2:16 p.m.

There being no further business, the March 14, 2013, regular Town Council meeting, continued to Tuesday, March 19, 2013, and reconvened at 3:27 p.m., was recessed at 3:58 p.m.

APPROVED:

David A. Rosow
David A. Rosow
Town Council President

ATTEST:

Susan A. Owens
Susan A. Owens, MMC
Town Clerk

4/9/2013
Date

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME Coniglio Gail L.	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE Mayor
MAILING ADDRESS 1139 N. Ocean Blvd.	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: ☒ CITY ☐ COUNTY ☐ OTHER LOCAL AGENCY
CITY Palm Beach COUNTY Palm Beach	NAME OF POLITICAL SUBDIVISION: Town of Palm Beach
DATE ON WHICH VOTE OCCURRED 3/14/13	MY POSITION IS: ☒ ELECTIVE ☐ APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office MUST ABSTAIN from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * * * * * * * * * * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * * * * * * * * * * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Gail L. Coniglio, hereby disclose that on ______________________, 20 13:

(a) A measure came or will come before my agency which (check one)

☑ inured to my special private gain or loss;

___ inured to the special gain or loss of my business associate, ______________________;

___ inured to the special gain or loss of my relative, ______________________;

___ inured to the special gain or loss of ______________________, by whom I am retained; or

___ inured to the special gain or loss of ______________________, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

____
Date Filed

____
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED $10,000.

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME Wildrick, Robert N.	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE Town Council
MAILING ADDRESS 220 Nightingale	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: ☒ CITY ☐ COUNTY ☐ OTHER LOCAL AGENCY
CITY Palm Beach COUNTY	NAME OF POLITICAL SUBDIVISION:
DATE ON WHICH VOTE OCCURRED 3-14-13	MY POSITION IS: ☒ ELECTIVE ☐ APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office MUST ABSTAIN from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * * * * * * * * * * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * * * * * * * * * * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Robert Waldman, hereby disclose that on 4/16/13, 20 ____:

(a) A measure came or will come before my agency which (check one)

☐ inured to my special private gain or loss;

X inured to the special gain or loss of my business associate, ____;

___ inured to the special gain or loss of my relative, ____;

___ inured to the special gain or loss of ____, by whom I am retained; or

___ inured to the special gain or loss of ____, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

4/14/13
Date Filed

Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED $10,000.