



TOWN OF PALM BEACH

Town Manager's Office

**TENTATIVE:
SUBJECT TO
REVISION**

TOWN COUNCIL MEETING

**TOWN HALL
COUNCIL CHAMBERS-SECOND FLOOR
360 SOUTH COUNTY ROAD**

AGENDA

**MAY 10, 2011
9:30 A.M.**

For information regarding procedures for monitoring or participating in Town Council meetings, please refer to the end of this agenda.

- I. CALL TO ORDER AND ROLL CALL
Mayor Gail L. Coniglio
David A. Rosow, Town Council President
Robert N. Wildrick, President Pro Tem
William J. Diamond, Town Council Member
Richard M. Kleid, Town Council Member
Michael J. Pucillo, Town Council Member
- II. INVOCATION AND PLEDGE OF ALLEGIANCE
- III. PRESENTATIONS
 - A. Legislative Summary Presented by Representative Pat Rooney.
 - B. Recognition of Bill Bone for Service as Chairman of the Centennial Commission.
 - C. A Proclamation of the Mayor of the Town of Palm Beach in Honor of the Palm Beach Centennial.

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- D. Recognition of Henry P. Jamison, IV, Recreation Advisory Commission, From April 2004 Through April 2011.
- E. Recognition of Danielle Moore, Recreation Advisory Commission, From May 2005 Through April 2011.
- F. Scholarship Provided by The Palm Beach Civic Association and The Citizens' Association of Palm Beach. [Ned Barnes, Palm Beach Civic Association and Rita Taca, The Citizens' Association of Palm Beach]
- IV. COMMENTS OF MAYOR GAIL L. CONIGLIO
- V. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER
- VI. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE
(Another opportunity for communications from citizens will be offered immediately after the lunch break.)
- VII. APPROVAL OF AGENDA
- VIII. CONSENT AGENDA
 - A. MINUTES: APRIL 6, 2011 Page 9
APPROVAL OF THE MINUTES OF THE SPECIAL TOWN COUNCIL MEETING-LONG TERM FINANCIAL PLAN
 - B. MINUTES: APRIL 12, 2011 Page 14
APPROVAL OF THE MINUTES OF THE TOWN COUNCIL MEETING
 - C. MINUTES: APRIL 12, 2011 Page 32
APPROVAL OF THE MINUTES OF THE SPECIAL TOWN COUNCIL MEETING CLOSED-DOOR SESSION-PRESERVE PALM BEACH PAC VS TOWN OF PALM BEACH
 - D. MINUTES: APRIL 13, 2011 Page 36
APPROVAL OF THE MINUTES OF THE TOWN COUNCIL MEETING
 - E. MINUTES: APRIL 19, 2011 Page 46
APPROVAL OF THE MINUTES OF THE SPECIAL TOWN COUNCIL MEETING-PLANTING OF SEA OATS AT PHIPPS OCEAN PARK

F.	<u>MINUTES: APRIL 21, 2011</u> APPROVAL OF THE MINUTES OF THE SPECIAL TOWN COUNCIL MEETING-IAFF IMPASSE HEARING	Page 49
G.	<u>MINUTES: MAY 2, 2011</u> APPROVAL OF THE MINUTES OF THE SPECIAL TOWN COUNCIL MEETING CLOSED-DOOR SESSION-TOWN OF PALM BEACH VS USA	Page 56
H.	APPROVAL OF MAJOR MATTERS CONSIDERED BY THE ARCHITECTURAL COMMISSION AT ITS MEETING ON APRIL 27, 2011.	Page 59
I.	RESOLUTIONS	
1.	<u>RESOLUTION NO. 38-11</u> A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Purchase of Five (5) Vehicles in the Total Amount of \$135,610 as Previously Considered and Approved by the Town Council During the FY2011 Budget Process and Included in the Town's Equipment Replacement Program. [Kirk W. Blouin, Police Chief and Acting Fire-Rescue Chief]	Page 72
2.	<u>RESOLUTION NO. 48-11</u> A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding Contracts for \$32,799 to Community Asphalt Corporation, and for \$184,823 to Florida Highway Products, Inc., for the Annual Roadway Paving and Resurfacing, Establishing a Total Budget of \$261,108 for Said Improvements, and Authorizing the Town Manager to Take Actions Necessary to Complete Said Improvements. [H. Paul Brazil, Director of Public Works]	Page 77
3.	<u>RESOLUTION NO. 51-11</u> A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Contract to Foster Marine Construction, Inc., in the Amount of \$1,292,960 and Establishing a Construction Phase Budget of \$1,422,256 for Installation of Utility Improvements and Roadway Restoration on North Lake Way and Tangier Avenue. [H. Paul Brazil, Director of Public Works]	Page 82
J.	OTHER	
1.	Authorization to Extend Display Time Frame for Centennial Street Signs. [Jay Boodheshwar, Director of Recreation]	Page 90

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| 2. | Authorization to Fill Vacant Records Information Systems Position Due to Retirement.
[Kirk W. Blouin, Police Chief and Acting Fire-Rescue Chief] | Page 93 |
| 3. | Authorization to Fill Vacant Crime Scene Evidence Unit (CSEU) Position Due to Retirement.
[Kirk W. Blouin, Police Chief and Acting Fire-Rescue Chief] | Page 96 |
| 4. | Authorization to Continue Membership and to Pay Dues to the Florida League of Cities. [Jane Struder, Director of Finance] | Page 99 |

IX. BOARD/COMMISSION ANNUAL REPORT

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| A. | Code Enforcement Board. [Timothy Hoffman, Chair and Kirk W. Blouin, Police Chief and Acting Fire-Rescue Chief] | Page 101 |
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X. REGULAR AGENDA

A. Old Business

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| 1. | Update Regarding Alternatives for Mid-Town Public Beach and Clarke Avenue Public Beach.
TIME CERTAIN: 10:00 A.M. | |
| a. | Clarke Avenue Parking Waiver from Florida Department of Environmental Protection (FDEP). [James Green, Esq.] | |
| b. | <u>RESOLUTION NO. 50-11</u> 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., for Design Services in the Amount of \$9,600 and Establishing a Design Budget of \$11,000 for Establishing Parking on South County Road Between Clarke Avenue and Barton Avenue.
[H. Paul Brazil, Director of Public Works] | Page 108 |
| c. | Mid-Town Restroom Alternative.
[H. Paul Brazil, Director of Public Works] | Page 115 |
| d. | Other | |

B. New Business

1. Review of Palm Beach County Environmental Enhancement Projects in Lake Worth Lagoon In and Near the Town of Palm Beach. [H. Paul Brazil, Director of Public Works]
TIME CERTAIN: 11:00 A.M.

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 - a. Proposed Dredging Under Ibis Isle Bridge.
[H. Paul Brazil, Director of Public Works]
 - b. Ibis Isle Restoration Project. [Rob Robbins, Palm Beach County Department of Environmental Resources Management]
 - c. Grassy Flats Restoration Project. [Rob Robbins, Palm Beach County Department of Environmental Resources Management]
 - d. Everglades Island Inshore Artificial Reef. [Rob Robbins, Palm Beach County Department of Environmental Resources Management]
 - e. South Cove Natural Area. [Rob Robbins, Palm Beach County Department of Environmental Resources Management]
2. Worth Avenue Improvement Project Design Element Amendments Recommended by the Worth Avenue Improvement Project Review Committee (Hybrid Committee).
[Thomas G. Bradford, Deputy Town Manager]

Page 121

 - a. Review and Approval of Proposed Design Element Amendments.
 - b. Sunsetting of Worth Avenue Improvement Project Review Committee.
3. Consideration of Offers to Purchase 110 Angler Avenue.
[John C. Randolph, Town Attorney]

Page 126
4. Appointment of Kirk W. Blouin as Director of Public Safety and Other Actions Regarding the Town's Management Plan.
[Peter B. Elwell, Town Manager]

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5. Accelerated Capital Improvement Program Update.
[H. Paul Brazil, Director of Public Works]
 - a. Presentation of Online Information Regarding the Accelerated Capital Improvement Program.
 - b. Request for Extended Work Hours for Installation of Subaqueous Force Main Under Lake Worth.
6. Commencement of Preliminary Steps Necessary for Implementation of Modified Town Pension Plans.
[Jane Struder, Director of Finance]

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XI. ORDINANCES

A. Second Reading

1. ORDINANCE NO. 15-11 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 114 Taxation, Article II, Local Business Tax, at Section 114-43 Schedule, So as to Amend the Fees Delineated for Each Business, Profession or Occupation; Expanding the Schedule for Apartments to Include Rental Dwellings; Amending Section 114-80 Relating to Exemption for Churches to Amend the Exemption to Apply to Houses of Worship; Amending Article IV, Telecommunications Services Public Service Tax by Deleting Sections 114-121 Through 114-126 and Providing That Telecommunication Services Public Service Tax Shall Be in Accordance with Chapter 202, Florida Statutes, the Communications Services Tax Simplification Law; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.
[John S. Page, Director of Planning, Zoning, and Building]

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B. First Reading

None

XII. ANY OTHER MATTERS

XIII. ADJOURNMENT

PLEASE TAKE NOTE

- No written materials received after 5:00 p.m. on the Thursday immediately prior to a monthly Town Council meeting will be included in the back-up binders distributed to the Mayor and Town Council in preparation for that meeting. Written materials received after 5:00 p.m. on Thursday will be separately distributed to the Mayor and Town Council; however, depending upon the length of the materials, the time of submittal, and other circumstances, the Mayor and Town Council may not be able to read and consider such late submittals prior to acting upon the policy matter(s) which they address.
- The progress of this meeting may be monitored by visiting the Town's website (www.townofpalmbeach.com) and selecting "Your Government" and then selecting "Live Meeting Audio". If you have questions regarding that feature, please contact the Office of Information Systems (561) 227-6315. The audio recording of the meeting will appear within 24 hours after the conclusion of the meeting under "Agendas, Minutes, and Audio."
- If a person decides to appeal any decision made by this Council with respect to any matter considered at this meeting or hearing, he/she will need a record of the proceedings. For such purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.
- Disabled persons who need an accommodation in order to participate in the Town Council Meeting are requested to contact the Town Manager's Office at 838-5410 or through the Florida Relay Service by dialing 1-800-955-8770 for voice callers or 1-800-955-8771 for TDD callers, at least two (2) working days before this meeting.
- Items listed on the Consent Agenda will be approved by one motion of the Town Council, unless the Mayor or an individual Council Member requests that any item(s) be moved to the Regular Agenda and individually considered.
- A summary of the actions taken at Town Council meetings can be viewed on the Town's website after 5 p.m. on the Friday following the Town Council meeting.

PROCEDURES FOR PUBLIC PARTICIPATION

Citizens desiring to address the Town Council should proceed toward the public microphones when the applicable agenda item is being considered to enable the Town Council President to acknowledge you.

PUBLIC HEARINGS: Any citizen is entitled to be heard on an official agenda item under the section entitled "Public Hearings," subject to the three minute limitation.

COMMUNICATIONS FROM CITIZENS: Any citizen is entitled to be heard concerning any matter under the section entitled "Communications from Citizens," subject to the three minute limitation.

OTHER AGENDA ITEMS: Any citizen is entitled to be heard on any official agenda item when the Town Council calls for public comments, subject to the three minute limitation.

Town Council Meetings are public business meetings and, as such, the Town Council retains the right to limit discussion on any issue.

**Town of Palm Beach
Meeting Schedule**

5/4/11

Tue 05/10/2011 09:30 AM	Town Council Meeting	Council Chambers
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Wed 05/11/2011 09:30 AM	Town Council Meeting - Development Review	Council Chambers
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Wed 05/11/2011 01:00 PM	Finance and Taxation Committee	Council Chambers
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Thu 05/12/2011 09:00 AM	Police Officers Board of Trustees Meeting	Council Chambers
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Wed 05/18/2011 09:30 AM	Landmarks Preservation Commission Meeting	Council Chambers
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Thu 05/19/2011 02:00 PM	Code Enforcement Board Meeting	Council Chambers
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Fri 05/20/2011 09:00 AM	Firefighters Retirement Board of Trustees Meeting	Council Chambers
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Fri 05/20/2011 02:00 PM	Investment Advisory Committee Meeting	Council Chambers
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Mon 05/23/2011 09:00 AM	General Employee Retirement Board	Council Chambers
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Wed 05/25/2011 09:00 AM	Architectural Commission	Council Chambers
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Mon 05/30/2011 04:00 AM	MEMORIAL DAY	TOWN HALL CLOSED
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Mon 06/13/2011 09:30 AM	Special Town Council Meeting re: Proposed FY12 Budget	Council Chambers
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Tue 06/14/2011 09:30 AM	Town Council Meeting	Council Chambers
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Wed 06/15/2011 09:30 AM	Town Council Meeting - Development Review	Council Chambers
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TOWN OF PALM BEACH

Town Council Meeting on: May 10, 2011

Section of Agenda

Consent Agenda

Agenda Title

MINUTES: APRIL 6, 2011

APPROVAL OF THE MINUTES OF THE SPECIAL TOWN COUNCIL MEETING-
LONG TERM FINANCIAL PLAN

Presenter

Susan A. Owens, Town Clerk

Supporting Documents

- Minutes of the April 6, 2011 Special Town Council Meeting

**MINUTES OF THE SPECIAL TOWN COUNCIL MEETING
HELD ON WEDNESDAY, APRIL 6, 2011**

I. CALL TO ORDER AND ROLL CALL

The Special Town Council Meeting was called to order at 9:30 a.m. on Wednesday, April 6, 2011, in the Town Council Chambers. On roll call, all of the elected officials were found to be present.

II. PLEDGE OF ALLEGIANCE

Council President Rosow led the Pledge of Allegiance.

III. APPROVAL OF AGENDA

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

IV. 2011 LONG TERM FINANCIAL PLAN [Peter B. Elwell, Town Manager and Jane Struder, Director of Finance]

Town Manager Elwell presented the Town of Palm Beach Long Term Financial Plan for Fiscal Years 2011-2021, which consisted of the following:

- Status of the Fiscal Year 2010-2011 Budget
- Reserve Status
- General Fund Revenue Trend Analysis
- General Fund Expenditure Trend Analysis
- General Fund Forecast Summary
- Recreation Enterprise Fund Trend Analysis
- Recreation Enterprise Fund Forecast Summary

Council President Pro Tem Wildrick stated that he felt the Town should not focus solely on the millage rate, but rather on what we need to do the job properly, the millage rate is just a byproduct. [17:00-18:30]

1 Council President Pro Tem Wildrick stated that we have been very good with regards to the way
2 we've issued our bonds, and challenged Town Manager Elwell to continue to watch and be strict
3 with bonds as we have done to date. [53:00-54:30]
4

5 Council Member Bill Diamond raised his concerns regarding projections for the coastal fund.
6 As the projections are based on things that are beyond the control of the Town, he feels that it is
7 dangerous to increase the millage without knowing what is required and whether the projects will
8 be done. He stated that he would rather go year by year and not put a penny into coastal unless
9 we know that it is absolutely necessary. Why pay in advance for something you may never have
10 to pay for, or not be allowed to pay for? [1:06:00-1:08:30]
11

12 Mayor Coniglio stated that by not putting additional revenue aside every year to prepare for the
13 project, the taxes for the particular year the project occurs will be substantially more. [1:07:00-
14 1:08:30]
15

16 Council President Rosow stated that he has already asked that the Taxation and Finance
17 Committee (TFC) come up with a plan to finance the coastal program. The committee will sit
18 down and talk to experts to determine the best way to finance the coastal plan. First we have to
19 get a plan, and then we as a body have to agree on what should be done. [1:08:00-1:09:30]
20

21 Council President Pro Tem Wildrick reiterated his belief that the Town should focus on what
22 they want and what it costs, not the millage, and that the best way to operate is from zero-based
23 budgeting. [1:14:30-1:16:00]
24

25 Council President Pro Tem Wildrick stated that the Town has done a good job of controlling
26 expenditures, but now we need to start looking at the revenue end. One of the largest non-ad
27 valorem sources of revenue is building permits. We have heard in the past that some individuals
28 have been discouraged with the Architectural Commission (ARCOM). We have to help
29 encourage people to get the job done in the right manner. He encouraged ARCOM to keep
30 maintaining the standards of the Town, but to also work with people to get this piece of our
31 income going. Council President Pro Tem Wildrick also commented on the successful
32 development of Worth Avenue and stated that we need to look at enhancing other areas of the
33 town, such as the Royal Poinciana Corridor. [1:16:00-1:21:00]
34

35 Council Member Kleid stated that the Shore Protection Board is putting together a plan and will
36 be making recommendations to the Town Council. This information will be important as we go
37 into the fiscal year 2012 budget process in June, where we will have to decide if we want to pay
38 as we go, pay into the fund each year, or a hybrid of the two. We are also waiting to hear from
39 the TFC to see if they have any suggestions. [1:21:00-1:22:30]
40

41 In regards to the coastal program, Town Manager Elwell stated that we can go year-by-year, but
42 he strongly recommends that a plan and funding for the coastal program be put into the long-
43 term plan now. The Council will then need to make a decision on whether to continue on a year-
44 by-year, as needed, or a when permits have been issued basis, or if they want to proceed on a
45 more level basis, like a savings account, where funds will only get expended when we're ready
46 to do a project. [1:23:00-1:26:30]

1 Council Member Diamond agreed that the beaches have to be maintained. He asked that when
2 the TFC reviews how to fund the coastal program that they make sure that their projections are
3 realistic, and not based on permits that may never be granted or ideas that may be impractical.
4 [1:26:30-1:27:30]

5
6 Mayor Coniglio asked Town Manager Elwell if any funds could be spent out of the coastal fund
7 without Council approval. Town Manager Elwell replied that they could, but only in increments
8 of \$100,000 or less. On any large-scale meaningful project, Council will always make the
9 decision of what gets spent and what does not. [1:28:30-1:30:00]

10
11 Council Member Kleid commented that one of the things that the Council may want to consider
12 in terms of building revenues is adding facilities to the marina, especially for mega yachts.
13 Council Member Wildrick commented that before considering adding facilities to the marina,
14 that the Town needs to do a complete market study. [1:34:00-1:40:00]

15
16 Council President Rosow suggested using Living Social and Groupon to promote the Town golf
17 course. [1:41:00-1:42:00]

18
19 Council President Rosow commented that the tennis facilities do not make a profit and that it
20 would be cheaper to give them away. Mayor Coniglio expressed her opposition to this. She
21 commented that tennis is part of the fabric of this community. Council Member Kleid stated his
22 support of the Mayor's position. [1:42:30-1:47:30]

23
24 Council President Rosow questioned if we should determine upfront where excess funds in a
25 department will go. He also stated that the Town needs to take a look at utility taxes. He feels
26 that they are a hidden tax, and the Town needs to figure out a way to do without them.
27 Outsourcing is also important to look at. [2:10:00-2:13:30]

28
29 Council President Rosow announced that he is working with Town Manager Elwell to compile a
30 list of functions of the Town to determine what is important to our residents' quality of life. He
31 asked each of the Council Members to talk to the residents and do an analysis of what we believe
32 is important so that the Council can provide guidance to staff as to how the Town should move
33 forward and what levels of service it should provide. We need to know what our standards are
34 so that we know where to put our fragile dollars. [2:15:30-2:17:30]

35
36 V. ANY OTHER MATTERS

37 There were none.
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2
3 XIV. ADJOURNMENT

4 There being no further business, the April 6, 2011 Special Town Council meeting was adjourned
5 at 11:49 a.m.

6 APPROVED:
7
8
9

10 _____
11 David A. Rosow
12 Town Council President
13

14 ATTEST:
15
16
17
18

19 _____
20 Susan A. Owens, MMC
Town Clerk

TOWN OF PALM BEACH

Town Council Meeting on: May 10, 2011

Section of Agenda

Consent Agenda

Agenda Title

MINUTES: APRIL 12, 2011

APPROVAL OF THE MINUTES OF THE TOWN COUNCIL MEETING

Presenter

Susan A. Owens, Town Clerk

Supporting Documents

- Minutes of the April 12, 2011 Regular Town Council Meeting

**MINUTES OF THE REGULAR TOWN COUNCIL MEETING
HELD ON TUESDAY, APRIL 12, 2011**

I. CALL TO ORDER AND ROLL CALL

The Regular Town Council meeting was called to order on Tuesday, April 12, 2011 at 9:30 a.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 Attorney Randolph gave the invocation. Council President Rosow led the Pledge of Allegiance.

III. PRESENTATIONS

A. Presentation by Bill Bone, Chairman, Town of Palm Beach Centennial Commission.

Mr. Bone reported that no tax dollars had been used by his Commission in planning the Centennial Celebration. He thanked the Council for their support, and thanked Town staff for all their hard work. Mr. Bone then announced the upcoming Centennial events. He concluded by stating that it has been a great privilege to serve in this capacity.

Council approved a request from Mr. Bone to allow the Police Department the discretion to close Coconut Row at 4:00 p.m., if needed, for the Centennial Parade on April 17, 2011.

B. Recognition of Eugene Pandula, Landmarks Preservation Commission, From March 1995 Through March 2011.

Mayor Coniglio recognized Mr. Pandula for his service on the Landmarks Preservation Commission.

C. Recognition of William Lee Hanley, Jr., Landmarks Preservation Commission, From March 2003 Through March 2011.

Mayor Coniglio recognized Mr. Hanley for his service on the Landmarks Preservation Commission.

D. Recognition of Samuel M. Boykin, Architectural Commission, From March 2006 Through March 2011.

Council President Rosow announced that Mr. Boykin was unable to attend the meeting, but expressed the Mayor and Town Council's thanks for his service on the Architectural Commission.

Clerk's Note: Item III.G. was taken out of order and heard here.

E. Presentations by Applicants for Code Enforcement Board.

Town Manager Elwell announced that Madelyn Greenberg elected not to make a presentation. The following applicants provided presentations to the Town Council:

Joel P. Koepfel
Scotch Peloso

F. Presentations by Applicants for Investment Advisory Committee.

The following applicants provided presentations to the Town Council:

Michael F. Andrews
Benton P. Bohannon
Kevin McCluskey

G. Presentations by Applicants for Recreation Advisory Commission.

Town Manager Elwell announced that Joseph Della-Giustina was not able to attend the meeting. The following applicants provided presentations to the Town Council:

Henry D. "Budge" Jamison IV
Pamela McIver
Dr. G. Ellen Howe
Khooshe Aiken
Roberta Mambrino
Stuart Shulman

IV. COMMENTS OF MAYOR GAIL L. CONIGLIO

None

V. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

Council Member Diamond spoke regarding the difference between a primary stroke center and a comprehensive stroke center. Comprehensive stroke centers provide a higher level of specialized care and equipment. He expressed his wish to change the current Town protocol of

1 taking patients to the nearest stroke center, to taking them to the closest comprehensive stroke
2 center.
3

4 VI. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

5 Pat Flynn, President of the Palm Beach Theatre Guild and Chairman of the Preserve Palm Beach
6 Political Action Committee, 2600 North Flagler Drive, West Palm Beach, reiterated Council
7 Member Diamond's comments on the importance of comprehensive stroke centers. He
8 requested that the Town not spend any more money on the Preserve Palm Beach lawsuit, and
9 that they resolve the referendum issue collectively.
10

11 Larry Goldfein, 2243 Ibis Isle Road, spoke regarding the negative impacts of the Ibis Isle
12 restoration projects, and asked the Council to direct staff to see what can be done to fix the
13 situation.
14

15 Council President Pro Tem Wildrick asked Town Manager Elwell to provide some background
16 on this project. Town Manager Elwell reported that these are Palm Beach County environmental
17 improvement projects. He stated that at the May 3, 2011 Town Council meeting there will be a
18 full report on the issue and on the Town's options. There will also be county representatives
19 present at the meeting to answer any questions.
20

21 Howard Rudolph, 2253 Ibis Isles, spoke regarding the negative impacts of the Ibis Isle
22 restoration projects.
23

24 Several Ibis Isle residents stood up to show the Council their concerns regarding the negative
25 impacts of the Ibis Isle restoration projects.
26

27 Tom Hunt, 2273 Ibis Isle, spoke regarding the negative impacts of the Ibis Isle restoration
28 projects.
29

30 Eric Gilbertson, 121 Chilean Avenue, spoke regarding the history of property taxes and
31 assessments.
32

33 Lewis Katz, 2275 S. Ocean Boulevard, requested that the Council direct the Shore Protection
34 Board (SPB) to allow for further review of the coastal protection plans before making a final
35 determination.
36

37 Simon Taylor, Attorney for the Preserve Palm Beach Political Action Committee (PPBPAC), PO
38 BOX 667, Palm Beach, urged the Council to end its litigation with PPBPAC and approve the
39 proposed compromise which will allow for a referendum regarding Poinciana Plaza.
40

41 Jere Zenko, 232 Tangier Avenue, distributed a report to the Council showing a breakdown of
42 what various properties paid in taxes, and suggested that the Town may need to go to assessment
43 districts.
44

Deborah Robinson, 217 Clarke Avenue, brought to the Council's attention a phone call she received from Ms. Zenko that she thought was improper.

Richard Hunegs, 3360 South Ocean Boulevard, requested that the Council allow Karen Erickson reasonable time to finish her analysis of the coastal protection plans before making a final determination.

VII. APPROVAL OF AGENDA

The following changes were made to the agenda:

ADDITION: Item XI.B.1a, Consideration of Scheduling an Attorney/Client Session Regarding Town of Palm Beach, Florida vs. United States of America, Civil Action No. 09-64 L, in the United States Court of Federal Claims, to Discuss this Matter on May 2, 2011, beginning at 9:30 a.m. in the Town Council Chambers, 360 South County Road, Palm Beach, Florida. Attorney/Client Session Attendees: Mayor Gail L. Coniglio; Town Council Members; David A. Rosow, Robert N. Wildrick, William J. Diamond, Richard M. Kleid, Michael J. Pucillo; Town Manager Peter B. Elwell; Attorney Jerry Stouck, Attorney John C. Randolph; and Court Reporter from Ley & Marsaa Court Reporters, Inc., was added.

WITHDRAWN: Item XII.A.1, Ordinance No. 8-11 was withdrawn and REPLACED by Item XII.B.2, Ordinance No. 15-11.

DEFERRED: Item XII.B.1, Ordinance No. 13-11, was deferred.

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

VIII. CONSENT AGENDA

A. MINUTES: MARCH 8, 2011 APPROVAL OF THE MINUTES OF THE TOWN COUNCIL MEETING

B. MINUTES: MARCH 8, 2011 APPROVAL OF THE MINUTES OF THE SPECIAL TOWN COUNCIL MEETING CLOSED-DOOR SESSION

C. MINUTES: MARCH 9, 2011 APPROVAL OF THE MINUTES OF THE TOWN COUNCIL MEETING

D. APPROVAL OF MAJOR MATTERS CONSIDERED BY THE ARCHITECTURAL COMMISSION AT ITS MEETING ON MARCH 23, 2011.

E. RESOLUTIONS

1. RESOLUTION NO. 12-11 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Purchase of Uniform Items From Seacoast Uniforms per Bid #2011-11. [Kirk W. Blouin, Police Chief and Acting Fire-Rescue Chief]
2. RESOLUTION NO. 20-11 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Third Amendment to the Interlocal Agreement Establishing the Municipal Public Safety Communications Consortium (MPSCC) of Palm Beach County as Set Forth in Exhibit "A" Attached Hereto; Providing an Effective Date; Authorizing the Mayor Sign the Agreement as Representative of the Town of Palm Beach.[Kirk W. Blouin, Police Chief and Acting Fire-Rescue Chief]
3. RESOLUTION NO. 24-11 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, De-Designating Certain Already Designated Historic or Specimen Trees Located on Properties Within the Town of Palm Beach; Adding Newly Designated Historic or Specimen Trees; Providing for the Recording of Said Designations, De-designations, and Providing That a Copy of this Resolution Be Recorded in the Public Records of Palm Beach County, Florida. [H. Paul Brazil, Director of Public Works]
4. RESOLUTION NO. 28-11 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing Funding to Florida Power & Light (FPL) for Electrical Service Upgrades in the Amount of \$15,415.64 for the D-15 (D-6 & D-7) Pump Station Project and Establishing a Budget of \$17,700.[H. Paul Brazil, Director of Public Works]
5. RESOLUTION NO. 29-11 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Contract to Kimley-Horn and Associates (KHA) in the Amount of \$152,075 and Establishing a Design Phase Budget of \$167,300 for the North Flagler Drive Force Main Project for the Town of Palm Beach.[H. Paul Brazil, Director of Public Works]
6. RESOLUTION NO. 30-11 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Contract to D. S. Eakins Construction Corporation in the Amount of \$54,000 and Establishing a Project Budget of \$60,000 for Lift Station 22 Piping Modifications for the Town of Palm Beach. [H. Paul Brazil, Director of Public Works]
7. RESOLUTION NO. 32-11 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Purchase Order to Mathews Consulting, Inc., in the Amount of \$79,597 for Additional Force Main Design Services Between Sanitary Sewage Pumping Stations A-7 and A-39 for the Town of Palm Beach, and Establishing a Design Phase Budget of \$87,557.[H. Paul Brazil, Director of Public Works]

8. RESOLUTION NO. 33-11 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving An Insurance Agent Services Agreement Addendum Number One Between the Town and Wells Fargo Insurance Services To Provide For Enhanced Insurance Agent Services to the Town and Authorizing the Town Manager to Execute the Same on Behalf of the Town.[Thomas G. Bradford, Deputy Town Manager]
9. RESOLUTION NO. 34-11 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Pre-Construction Phase Contract to Burkhardt Construction, Inc., in the Amount of \$87,000 and Establishing a Pre-Construction Phase Budget of \$95,700 for (Construction Program Management) Construction Management at Risk Services for the A-39 to A-7 Pump Station Force Main Replacement.[H. Paul Brazil, Director of Public Works]
10. RESOLUTION NO. 35-11 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Town Council President to Execute an Interlocal Agreement with the Northern Palm Beach County Improvement District for Assistance in the Continuation of the Provisions of the National Pollutant Discharge Elimination System Third Term Permit.[H. Paul Brazil, Director of Public Works]
11. RESOLUTION NO. 36-11 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving An Underground Facilities Conversion Agreement With Florida Power & Light Company in the Amount of \$131,326 in Conjunction With the Via Fontana Underground Utilities Special Assessment Project and Authorizing the Town Manager To Execute the Same on Behalf of the Town; Authorizing the Establishment of A Line of Credit for the Via Fontana Project and Authorizing the Expenditure of Appropriated Burial of Overhead Lines Monies Within the Capital Improvement Fund To Facilitate the Timely Completion of the Via Fontana Project With Said Funds To Be Reimbursed To the Town Immediately Upon Establishment of the Line of Credit Herein Above Approved. [Thomas G. Bradford, Deputy Town Manager]
12. RESOLUTION NO. 37-11 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Declaring the Town's Official Intent to Seek Reimbursement for Certain Expenditures made or to be made in with respect to the burying of Certain Utility Cables Within the Town and Certain Streetscape Improvements and Related Capital Projects from the Proceeds of its Not to Exceed \$5,000,000 Principal Amount of Bonds and Providing for An Effective Date.[Thomas G. Bradford, Deputy Town Manager]
13. RESOLUTION NO. 39-11 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Contract to Pantropic Power, Inc. for the Procurement, Delivery, Installation and Start-up of Two, 750 KW Generators for the D-6 and D-7 Storm Water Pump Stations, in the Amount of \$237,830.82 and Establish an Overall Budget of \$260,000. [H. Paul Brazil, Director of Public Works]

14. RESOLUTION NO. 40-11 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Contract to Mock Roos & Associates (MRA) in the Amount of \$50,000 and Establishing a Project Budget of \$55,000 for Miscellaneous Storm Drainage Improvements for the Town of Palm Beach.[H. Paul Brazil, Director of Public Works]

15. RESOLUTION NO. 41-11 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Contract to Corzo Castella Carballo Thompson Salman (C3TS) in the Amount of \$50,000 and Establishing a Project Budget of \$55,000 for Miscellaneous Sanitary Sewer Improvements for the Town of Palm Beach.[H. Paul Brazil, Director of Public Works]

16. RESOLUTION NO. 44-11 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 \$6,850 for Contamination Assessment and Remediation Plan Services, Establishing a Remediation Plan Phase Budget of \$30,000.[H. Paul Brazil, Director of Public Works]

17. RESOLUTION NO. 46-11 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Town Manager to Enter into Contract Extensions with Storm Reconstruction Services, Inc. (SRS) and TFR Enterprises, Inc., for Debris Management, Removal, Reduction and Disposal.[H. Paul Brazil, Director of Public Works]

18. RESOLUTION NO. 47-11 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Purchase of Two Ford Fusion Hybrid Staff Replacement Vehicles in the Amount of \$55,440 for the Department of Public Works with An Estimated Net Cost of \$40,120 Upon Receipt of Anticipated State of Florida Energy Efficiency and Conservation Block Grant Proceeds and Authorizing the Town Manager to Execute Necessary Purchasing Documents to Effect the Acquisition on Behalf of the Town. [Thomas G. Bradford, Deputy Town Manager]

F. OTHER

1. Investment Advisory Committee Appointments.[Jane Struder, Director of Finance]

2. Code Enforcement Board Appointments.[Kirk W. Blouin, Police Chief]

3. Approval to Allow Horse Drawn Carriages in the Centennial Parade on April 17, 2011. [Jay Boodheshwar, Director of Recreation]

4. Authorization to Fill Vacancies in Public Works. [H. Paul Brazil, Director of Public Works]

1
2 **Motion was made by Council Member Diamond and seconded by Council Member Kleid**
3 **to approve the Consent Agenda. On roll call, the motion carried unanimously.**
4

5 IX. BOARD/COMMISSION ANNUAL REPORT

6 A. Architectural Commission. [Jeffery W. Smith, Chair and John S. Page, Director of
7 Planning, Zoning, and Building]

8 Jeffery Smith, Chair of the Architectural Commission, presented a summary of the Architectural
9 Commission Annual Report.

10 **Motion was made by Council Member Diamond and seconded by Council Member Kleid**
11 **to accept the report. On roll call, the motion carried unanimously.**
12

13 X. COMMITTEE REPORTS

14 A. Finance and Taxation Committee Meeting of March 9, 2011. [Robert N. Wildrick, President
15 Pro Tem]

16 Council President Pro Tem Wildrick presented a summary of the Finance and Taxation
17 Committee Meeting of March 9, 2011.

18 **Motion was made by Council Member Diamond and seconded by Council Member Kleid**
19 **to accept the report. On roll call, the motion carried unanimously.**
20

21 B. Ordinances, Rules, and Standards Committee Meeting of March 29, 2011. [William J.
22 Diamond, Town Council Member]

23 Council Member Diamond presented a summary of the Ordinances, Rules, and Standards
24 Committee Meeting of March 29, 2011.

25 **Motion was made by Council Member Kleid and seconded by Council Member Pucillo to**
26 **accept the report. On roll call, the motion carried unanimously.**
27

28 XI. REGULAR AGENDA

29 A. Old Business

30 1. Public Parking Requirements for the Clarke Avenue Beach. [Gail L. Coniglio, Mayor]

31 Mayor Coniglio reported back to the Council on the meeting she facilitated with the
32 Clarke Avenue and the Sea street residents on April 7, 2011. There was an update
33 from Attorney Jim Green on the Florida Department of Environmental Protection

(DEP) waiver. The Town offered a two-for-one trade off using the surplus parking at Mid-Town Beach, but DEP staff did not support the idea. Another idea discussed was to extend the boundaries to capture more spaces. There was also discussion about returning the money the Town received back to the state. This would null and void the Clarke Avenue access needs. \$600,000 would need to be returned to DEP; additionally, the Town could lose \$800,000 for the next beach nourishment project.

The second option was bathrooms. A bathroom at Mid-Town Beach would qualify it as a primary beach, and then the Clarke Avenue parking requirements would disappear. After that meeting there was discussion amongst the residents about paying for the potential bathroom with private funds.

The next option was to add parking along South County Road. There were concerns from both the residents and the Police Department that this would create further bottlenecks in that area.

South Ocean Boulevard was another option. It would be one-way from Barton Avenue to Royal Palm Way. The consensus was that the parallel parking would go on the eastern most side, which would impact the ocean front homeowners as they are now. We would need a traffic study for this option. Another option was the Barton Avenue beach access, which would allow for 13 spaces by widening the pathway on the south side of Estee Lauder's property. That option was not met with much approval. The last option was to spread the parking burden to Seaspray, Seabreeze, Clark, and Barton. There was a question as to if Seaview would be included in that group. Mayor Coniglio stated that it would not as it is just outside the ¼ mile measurement. The question on shared parking remains as DEP requires that a collective boundary of parking spaces be available. The counted parking spaces cannot be scattered.

Mayor Coniglio reported that beach badges were also discussed. They are not prohibited by the state but are unenforceable east of the Erosion Control Line. The only thing we can control is the lands they cross over. However, equal access must be given. This means that it must be the same cost for residents and non-residents. There were questions on who would have to pay, how it would be collected, and how it would be enforced.

Mayor Coniglio concluded her report by announcing that at the end of the meeting there was a poll and first was to continue with the DEP waiver. Installing bathrooms was the number one vote, with spreading the parking burden and the South County Road options coming in second and third. She encouraged the Council to collect more data and allow the community to weigh in at the May 10, 2011 Council meeting.

With regards to the bathrooms, several concerns were raised by the Council over cost, security, criminal activity, sanitary and health conditions, maintenance, and changing the nature of the beach.

Steve Greenwald, 128 Seaspray Avenue, stated that he supports adding a bathroom, and that he collected 110 petitions from residents in support of same.

Maura Ziska, Kochman & Ziska PLC, 222 Lakeview Avenue, West Palm Beach, representative of the Ocean block of Clark Avenue, stated that the residents she is representing would be agreeable to fundraising to pay for a study on the bathrooms option.

Deborah Robinson, 217 Clarke Avenue, representative of the 2nd block of Clark Avenue, stated that she has collected 13 signatures from her neighbors in support of adding a bathroom, and requested that the Council not wait to move forward on this.

Council consensus was to have staff begin a preliminary analysis of the Mid-Town restrooms alternative and report back at the May 10, 2011 Town Council meeting regarding that and all other alternatives.

2. Royal Poinciana Way Median Turn-Around-Results of Traffic Engineers' Analysis. [John S. Page, Director of Planning, Zoning, and Building]

John Page, Director of Planning, Zoning, and Building, presented a summary of the staff report.

Alexander Ives, Preservation Foundation of Palm Beach, 311 Peruvian Avenue, stated that this is a landmarked vista, and any plans will have to go before the Landmark Preservation Board. Also, if the Town fills in this median, then there will be no opportunity to put a cut thru street in at the bank as was discussed in the past.

Leslie Evans, 135 Seminole Avenue, stated that he was in support of closing the median turn-around.

Allen Wyett, 1145 North Lake Way, stated that he was opposed to closing the median turn-around. He suggested that the Council wait a year until construction in the area is done, block it off manually, and see if it works.

David Barton, 216 Jamaica Lane, stated that he was opposed to closing the median turn-around.

Joyce McClearly, 233 Royal Poinciana Way, Vice President of Royal Poinciana Way Association, Palm Beach, stated that she was in support of closing the median turn-around.

Council consensus was to install temporary barricades first (early in the 2011-2012 winter season) to determine the effect on traffic flow.

B. New Business

1. Consideration of Scheduling an Attorney/Client Session Regarding Preserve Palm Beach Political Action Committee and Patrick Henry Flynn v. Town of Palm Beach, Florida, Case No. 4D10-4751, in the District Court of Appeal, State of Florida, Fourth District, to Discuss this Matter to Begin Immediately Following this Regular Town Council Meeting in the Town Council Chambers, 360 South County Road, Palm Beach, Florida. Attorney/Client Session Attendees: Mayor Gail L. Coniglio; Town Council Members; David A. Rosow, Robert N. Wildrick, William J. Diamond, Richard M. Kleid, Michael J. Pucillo, and Town Manager Peter B. Elwell; Attorney John C. Randolph; and Court Reporter from Ley & Marsaa Court Reporters, Inc. [John C. Randolph, Town Attorney]

Town Attorney Randolph read into the record the announcement of the Attorney Client session that would immediately follow adjournment of this Regular Town Council meeting.

Motion was made by Council Member Diamond and seconded by Council Member Kleid to schedule the Attorney Client session. On roll call, the motion carried unanimously.

Clerk's Note: The following Item was added to the Agenda.

- a. Consideration of Scheduling an Attorney/Client Session Regarding Town of Palm Beach, Florida vs. United States of America, Civil Action No. 09-64 L, in the United States Court of Federal Claims, to Discuss this Matter on May 2, 2011, beginning at 9:30 a.m. in the Town Council Chambers, 360 South County Road, Palm Beach, Florida. Attorney/Client Session Attendees: Mayor Gail L. Coniglio; Town Council Members; David A. Rosow, Robert N. Wildrick, William J. Diamond, Richard M. Kleid, Michael J. Pucillo; Town Manager Peter B. Elwell; Attorney Jerry Stouck, Attorney John C. Randolph; and Court Reporter from Ley & Marsaa Court Reporters, Inc. [John C. Randolph, Town Attorney]

Town Attorney Randolph read into the record the announcement of the Attorney Client session that would be held on May 2, 2011.

Motion was made by Council Member Diamond and seconded by Council Member Kleid to schedule the Attorney Client session. On roll call, the motion carried unanimously.

2. Consideration of Funding \$2,622.19 for a Traffic Study for the 400 Block of Peruvian Avenue to Determine the Anticipated Impact of Reducing Lane Width in Connection with a Streetscape Improvement Project to be Paid for by Adjacent Property Owners. [Thomas G. Bradford, Deputy Town Manager]

Several concerns were raised by the Council over who should pay for the project. Town Manager Elwell clarified that the intent of the Town funding this traffic study is to make sure the project will not create a traffic problem. All subsequent costs related to the design, permitting, and execution of the improvements would be paid for in a similar manner to the Worth Avenue project, where the private property owners paid for the improvements themselves. John Page, Director of Planning, Building, and Zoning, added that there were monies in his budget for funding studies of this magnitude. When asked about precedent, Manager Elwell stated that

it has gone both ways and cited the public-private partnership on the Worth Avenue Project.

Allen Wyett, 1145 North Lake Way, stated that there is no precedent for this, and that he is opposed to narrowing streets.

Bill Feldkamp, 401 Peruvian Avenue, Palm Beach, stated his support for the project, and that he and his neighbors are seeking a signal from the Council that this is something that they support.

Motion was made by Council President Pro Tem Wildrick and seconded by Council Member Diamond to approve with the residents paying for the study. On roll call, the motion carried 4-1 with Council Member Pucillo dissenting. Motion was made by Council Member Kleid and seconded by Council Member Diamond to reconsider the previous motion. On roll call, the motion carried unanimously.

Motion was made by Council President Pro Tem Wildrick and seconded by Council Member Kleid to approve funding subject to reimbursement by the Special Taxing District when it is approved. If the Special Taxing District is not approved, they will make the appropriate adjustments so that the Town can approve the plan. On roll call, the motion carried unanimously.

3. Shore Protection Board

a. Shore Protection Board Recommendation for Dune Planting at Phipps Ocean Park.

Town Manager Elwell presented a summary of the staff report and objections. He emphasized that, due to the current conditions, there is a great likelihood that the sea oats will wash away and that the investment will be lost.

Concerns were raised over people walking across and eroding the dunes. Town Manager Elwell stated that, where the dune is vegetated, we can prohibit people from getting onto the dune and cite them for violating the law. On the open sandy beach near the dune we try to discourage people from walking on the dunes, but it can legally be used that way.

Town Manager Elwell pointed out that the sand that was placed in this project was supplemental to the existing dune, that it is not the next wave of storm protection for the Town. The sand was put there with the expectation that it will move into the system and that it will be washed away under normal beach conditions, not just a large storm.

Carla Herwitz, 2275 South Ocean Boulevard, stated that she was in support of the Shore Protection Board's recommendation for planting the sea oats.

Jerry Frank, 2784 South Ocean Boulevard, stated that he was in opposition to planting the sea oats. He felt that, in this instance, they would not last.

Motion was made by Council President Pro Tem Wildrick and seconded by Council President Rosow to reject the recommendation of the Shore Protection Board. On roll call, the motion failed 2-3 with Council Members Diamond, Kleid, and Pucillo dissenting.

Motion was made by Council Member Pucillo and seconded by Council Member Diamond to accept the recommendation of the Shore Protection Board. On roll call, the motion carried 3-2 with Council President Pro Tem Wildrick and Council President Rosow dissenting.

- b. Addition of Save Our Shores (SOS) Coalition Members to the Shore Protection Board. [William J. Diamond, Town Council Member]

Council Member Diamond presented his proposal to appoint members of the Save Our Shores (SOS) Coalition to the Shore Protection Board to the Council.

Anne Pepper, 333 Seaspray Avenue, representing the Neighbors Association of Palm Beach, made a request for more signs to be placed on the restored dunes around the Par 3 Golf Course and at Phipps Ocean Park. People do not understand the fragile nature of the dunes and the sea oats. She also suggested adding to the signs that violators will be fined. Ms. Pepper stated that she was in support of Council Member Diamond's proposal.

Richard Hunegs, 3360 South Ocean Boulevard, stated that he was in support of Council Member Diamond's proposal.

Motion was made by Council Member Diamond to accept his proposal to add SOS members to the Shore Protection Board. Motion died for lack of a second.

4. Strategic Plan Implementation Status Report. [John S. Page, Director of Planning, Zoning, and Building]

Council Member Diamond noted that the reference to Good Samaritan as being a comprehensive stroke center needed to be amended to say that it is a primary stroke center.

Council Member Kleid noted that the Town's creation of its County Budget Taskforce needed to be added into the report.

Town Manager Elwell stated that this is just an annual status report, but a year from now the Council will need to decide whether, and if so how, to move forward with an entirely fresh strategic planning process. The Council also has the option of going through this process sooner if they wish.

Motion was made by Council Member Diamond and seconded by Council Member Kleid to amend the report to change the designation of Good Samaritan from a comprehensive stroke center to a primary stroke center, to add the Town's creation of its County Budget Taskforce, and to accept the report as amended. On roll call, the motion carried unanimously.

5. Staff Assistance to Citizens Conducting Research. [Peter B. Elwell, Town Manager]

Town Manager Elwell presented a summary of the staff report.

Motion was made by Council Member Diamond to add a sixth point to the recommended policy: "Any aggrieved citizen has the right to appeal to the Town Council any staff decision restricting access to any document or explanation thereof." Motion died for lack of a second.

Council Member Kleid noted that there was a typo on number 2 of the report. It should read, "Staff will always attempt to candidly answer reasonable questions about what those documents mean and/or about related actions which are being taken or considered."

Council consensus was to amend number 2 of the proposal to read, "Staff will always attempt to candidly answer reasonable questions about what those documents mean and/or about related actions which are being taken or considered.", and to accept the proposal as amended.

6. Recreation Advisory Commission Appointments. [Jay Boodheshwar, Director of Recreation]

Council President Rosow announced the results of the appointments to the Recreation Advisory Commission. The new three regular members are: Khooshe Aiken, Pamela McIver, and Stuart Shulman. A decision on appointing alternate members was deferred in order for staff to determine if the two members that were not reappointed wish to serve as alternates. The Town will readvertise the openings and appointments will be made at a future meeting.

Motion was made by Council Member Diamond and seconded by Council Member Pucillo to ratify the appointments. On roll call, the motion carried unanimously.

XII. ORDINANCES

A. Second Reading

1. ORDINANCE NO. 8-11 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 114 Taxation, Article II, Local Business Tax, at Section 114-43 Schedule, So as to Delete Therefrom the Fees Delineated for Each Business, Profession or Occupation and Providing

That the Annual Business Tax Fee Shall Be Established by Resolution of the Town Council as May Be Amended from Time to Time; Expanding the Schedule for Apartments to Include Rental Dwellings; Expanding the Schedule for Motor Scooter and Motorcycle Rental to Include Mopeds, Jet Skis, Recreational Vehicles, Etc; Expanding the Schedule to Include Recreational Venues (Outdoor) Including Tennis Courts, Racquetball Courts, Etc.; Amending Section 114-80 Relating to Exemption for Churches to Amend the Exemption to Apply to Houses of Worship; Amending Article IV, Telecommunications Services Public Service Tax by Deleting Sections 114-121 Through 114-126 and Providing That Telecommunication Services Public Service Tax Shall Be in Accordance with Chapter 202, Florida Statutes, the Communications Services Tax Simplification Law; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date. [Thomas G. Bradford, Deputy Town Manager] Ordinance No. 8-11 Is Withdrawn and Replaced by Ordinance No. 15-11.

Clerk's Note: Ordinance No. 8-11 was withdrawn and replaced by Item XII.B.2., Ordinance No. 15-11.

2. ORDINANCE NO. 9-11 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 116 Relating to Telecommunications; Amending Article I, in General; Providing a New Article II, Use of the Public Rights-of-Way; Deleting the Existing Article II in its Entirety Pertaining to Enforcement and Remedies; Deleting the Existing Article III in its Entirety Pertaining to Special Rules; Providing a New Article III, Registration; Providing a New Article IV, Administration and Enforcement and Amending the Article Pertaining to Private Communication Facilities by Renumbering it to Become Article V; 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. 9-11 by title, as printed above.

Motion was made by Council Member Diamond and seconded by Council Member Kleid to adopt Ordinance No. 9-11. On roll call, the motion carried unanimously.

3. ORDINANCE NO. 10-11 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 118 Relating to Traffic and Vehicles; Amending Section 118-1; Deleting Section 118-51; Amending Section 118-86, 118-90, 118-92, 118-93, 118-94, 118-95, 118-96, 118-122, 118-123, 118-124; Deleting Section 118-125; Amending Sections 118-126, 118-127, 118-128; Deleting Section 118-130; Amending Sections 118-131, 118-132, 118-133, 118-134, 118-135, 118-136, 118-137; Deleting Sections 118-140 and 118-141; Amending Sections 118-145, 118-149, 118-151, 118-155, 118-159.1 and 118-164; 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. 10-11 by title, as printed above.

1 **Motion was made by Council Member Diamond and seconded by Council Member Kleid**
2 **to adopt Ordinance No. 10-11. On roll call, the motion carried unanimously.**
3

- 4 4. ORDINANCE NO. 11-11 An Ordinance of the Town Council of the Town of Palm Beach,
5 Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 122
6 Relating to Utilities; Amending Sections 122-52, 122-77, 122-80, 122-118, 122-140, 122-
7 141, 122-142 and 122-157; Providing for Severability; Providing for Repeal of Ordinances
8 in Conflict; Providing for Codification; Providing an Effective Date. [Thomas G. Bradford,
9 Deputy Town Manager]

10 Town Attorney Randolph read Ordinance No. 11-11 by title, as printed above.

11 **Motion was made by Council Member Diamond and seconded by Council Member Kleid**
12 **to adopt Ordinance No. 11-11. On roll call, the motion carried unanimously.**
13

- 14 5. ORDINANCE NO. 12-11 An Ordinance of the Town Council of the Town of Palm Beach,
15 Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 126
16 Relating to Vegetation; Amending Sections 126-31 and 126-83; Deleting Section 126-88;
17 Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for
18 Codification; Providing an Effective Date. [Thomas G. Bradford, Deputy Town Manager]

19 Town Attorney Randolph read Ordinance No. 12-11 by title, as printed above.

20 **Motion was made by Council Member Diamond and seconded by Council Member Kleid**
to adopt Ordinance No. 12-11. On roll call, the motion carried unanimously.

B. First Reading

1. ORDINANCE NO. 13-11 An Ordinance of the Town Council of the Town of Palm Beach,
Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 130
Relating to Vehicles for Hire; Amending Sections 130-31, 130-33, 130-61, 130-62, 130-64,
130-68, 130-69, 130-70 and 130-97; Providing for Severability; Providing for Repeal of
Ordinances in Conflict; Providing for Codification; Providing an Effective Date. [Thomas
G. Bradford, Deputy Town Manager] Deferred from the March 8, 2011, Town Council
Meeting. Request for Deferral to a Future Town Council Meeting.

Clerk's Note: Ordinance No. 13-11 was deferred.

2. ORDINANCE NO. 15-11 An Ordinance of the Town Council of the Town of Palm Beach,
Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 114
Taxation, Article II, Local Business Tax, at Section 114-43 Schedule, So as to Amend the
Fees Delineated for Each Business, Profession or Occupation; Expanding the Schedule for
Apartments to Include Rental Dwellings; Amending Section 114-80 Relating to Exemption
for Churches to Amend the Exemption to Apply to Houses of Worship; Amending Article

IV, Telecommunications Services Public Service Tax by Deleting Sections 114-121 Through 114-126 and Providing That Telecommunication Services Public Service Tax Shall Be in Accordance with Chapter 202, Florida Statutes, the Communications Services Tax Simplification Law; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date. [John S. Page, Director of Planning, Zoning, and Building]

Town Attorney Randolph read Ordinance No. 15-11 by title, as printed above.

Motion was made by Council Member Diamond and seconded by Council Member Kleid to approve Ordinance No. 15-11. On roll call, the motion carried unanimously.

XIII. ANY OTHER MATTERS

A. RESOLUTION NO. 45-11. A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Imposing Fees, Fines and Penalties for Parking, Valet Permits, Water Conservation, Industrial Waste, Limousine and Chauffeur Permits, Providing an Effective Date. [Jane Struder, Director of Finance]

Town Attorney Randolph read Resolution No. 45-11 by title, as printed above.

Motion was made by Council Member Diamond and seconded by Council Member Kleid to approve Resolution No. 45-11. On roll call, the motion carried unanimously.

XIV. ADJOURNMENT

There being no further business, the Regular Town Council Meeting of Tuesday, April 12, 2011 was adjourned at 2:11 p.m.

APPROVED:

David A. Rosow
Town Council President

ATTEST:

Susan A. Owens, MMC
Town Clerk

TOWN OF PALM BEACH

Town Council Meeting on: May 10, 2011

Section of Agenda

Consent Agenda

Agenda Title

MINUTES: APRIL 12, 2011

APPROVAL OF THE MINUTES OF THE SPECIAL TOWN COUNCIL MEETING
CLOSED-DOOR SESSION-PRESERVE PALM BEACH PAC VS TOWN OF PALM
BEACH

Presenter

Susan A. Owens, Town Clerk

Supporting Documents

- Minutes of the April 12, 2011 Special Town Council Meeting Closed-Door Session

**MINUTES OF THE SPECIAL TOWN COUNCIL MEETING
HELD ON TUESDAY, APRIL 12, 2011**

I. CALL TO ORDER AND ROLL CALL

The Special Town Council meeting was called to order at 2:13 p.m. on Tuesday, April 12, 2011, in the Town Council Chambers. On roll call, all of the elected officials were found to be present.

II. APPROVAL OF AGENDA

Motion was made by Council Member Diamond and seconded by Council President Rosow to approve the Agenda as printed. On roll call, the motion carried unanimously.

III. PRESERVE PALM BEACH POLITICAL ACTION COMMITTEE AND PATRICK HENRY FLYNN VS TOWN OF PALM BEACH AND CASE NO. 4D10-4751, IN THE DISTRICT COURT OF APPEAL, STATE OF FLORIDA, FOURTH DISTRICT.

F.S. 286.011(8) allows the Mayor, Town Council, and the Town Manager to meet in a Closed-Door Attorney/Client Session for the purpose of discussing strategy related to litigation.

Council President Rosow announced the following:

- a.) The Attorney/Client Closed-Door Session
- b.) The estimated time is thirty minutes
- c.) The names of the persons attending:
 - Gail L. Coniglio, Mayor
 - David A. Rosow, Town Council President
 - Robert N. Wildrick, Town Council President Pro Tem
 - William J. Diamond, Town Council Member
 - Richard M. Kleid, Town Council Member
 - Michael J. Pucillo, Town Council Member
 - John C. Randolph, Town Attorney
 - Peter B. Elwell, Town Manager
 - Ley and Marsaa, Court Reporters

At 2:16 p.m., the persons attending the meeting (listed above) relocated from the Town Hall Council Chambers to the immediately adjacent conference room.

IV. RECONVENE SPECIAL TOWN COUNCIL MEETING IN THE TOWN HALL
COUNCIL CHAMBERS

A.) Call to Order

The Special Town Council meeting was reconvened at 3:22 p.m., in the Town Council Chambers.

B.) Town Council President to Announce the Termination of the Attorney/Client Session.

Council President Rosow announced the termination of the Attorney/Client Session. He stated that the Town Council listened to a report from its Attorney, John Randolph, regarding its litigation against the Preserve Palm Beach Political Action Committee and Patrick Flynn.

Motion was made by Council Member Kleid and seconded by Council Member Pucillo to reject the settlement offer by the Preserve Palm Beach Political Action Committee and the Palm Beach Theatre Guild. On roll call, the motion carried 4-1, with Council Member Diamond dissenting.

Motion was made by Council Member Diamond and seconded by Council Member Pucillo to direct Town Attorney Randolph to make an offer to the Preserve Palm Beach Political Action Committee and the Palm Beach Theatre Guild that they drop both of their appeals, one to the Supreme Court and one to the District Court of Appeals, in return the Town Council will instruct its Attorney to drop the Town's motion for sanctions in the second case, and to remind the Preserve Palm Beach Political Action Committee and the Palm Beach Theatre Guild that they have remedy through the Town's Code of Ordinances to seek redress in the form of a petition in the event that any development occurs which changes the Town of Palm Beach's Comprehensive Plan or its Zoning Code. On roll call, the motion carried unanimously.

V. ANY OTHER MATTERS

There were none.

VI. ADJOURNMENT

There being no further business, the Special Town Council Meeting of Tuesday, April 12, 2011 was adjourned at 3:24 p.m.

APPROVED:

David A. Rosow
Town Council President

ATTEST:

Susan A. Owens, MMC
Town Clerk

TOWN OF PALM BEACH

Town Council Meeting on: May 10, 2011

Section of Agenda

Consent Agenda

Agenda Title

MINUTES: APRIL 13, 2011

APPROVAL OF THE MINUTES OF THE TOWN COUNCIL MEETING

Presenter

Susan A. Owens, Town Clerk

Supporting Documents

- Minutes of the April 13, 2011 Regular Town Council Meeting

**MINUTES OF THE REGULAR TOWN COUNCIL MEETING
HELD ON WEDNESDAY, APRIL 13, 2011**

I. CALL TO ORDER AND ROLL CALL

The Regular Town Council meeting was called to order on Wednesday, April 13, 2011, at 9:30 a.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. COMMENTS OF MAYOR GAIL L. CONIGLIO

There were none.

IV. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

Council President Pro Tem Wildrick expressed concerns regarding the following: Palm Beach County's involvement in the situation in Ibis Isle, dumping bridge parts off Everglades Island, the dredged materials being dumped near the Royal Palm Bridge, a proposed restaurant on Peanut Island, and the federal government's project of widening the inlet. He stated that he felt strongly that any projects affecting the Town should be presented to the Town Council for concurrence.

Council President Rosow suggested that Council President Pro Tem Wildrick and Town Manager Elwell provide a report at the next Town Council meeting.

V. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

There were none.

VI. APPROVAL OF AGENDA

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

VII. PUBLIC HEARING

Town Clerk Owens administered the oath to all those who would be providing testimony.

A. RESOLUTION NO. 42-11 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Ratifying and Confirming the Determination of the Landmarks Preservation Commission that the Property Known as 300 Barton Avenue Meets the Criteria Set Forth in Ordinance No. 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach; and Designating Said Property as a Town of Palm Beach Landmark Pursuant to Ordinance 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach. [John Page, Director of Planning, Zoning, and Building]

Historical Consultant Jane Day provided an overview of the Designation Report of the property known as 300 Barton Avenue.

Motion made by Council Member Kleid, seconded by Council Member Diamond, to accept the Designation Report of 300 Barton Avenue as a landmarked property. On roll call, the motion carried unanimously.

Town Attorney Randolph read Resolution No. 42-11 by title, as printed above.

Motion made by Council Member Diamond to approve Resolution No. 42-11 designating the property at 300 Barton Avenue, as a landmark of the Town of Palm Beach on the basis that it meets criteria identified in the Designation Report of 54-161 of the Town of Palm Beach Code and the Landmarks Preservation Ordinance 2-84. Council Member Kleid seconded the motion. On roll call, the motion carried unanimously.

VIII. ORDINANCES

A. Second Reading

None

B. First Reading

1. ORDINANCE NO. 1-11 An Ordinance Of The Town Council Of the Town Of Palm Beach, Palm Beach County, Florida, Amending The Text Of The Future Land Use Element Of The Town Of Palm Beach Comprehensive Plan As Last Amended On August 11, 2010, With The Adoption Of Ordinance No. 3-10, By Amending The Data & Analysis In The Future Land Use Element And Amending Policy 2.3.1 As It Addresses Square Footage Thresholds For Town-Serving Businesses; Providing For Severability; Repealing All Ordinances Or Part Of Ordinances In Conflict Hereof; Providing For Codification; And Providing an Effective Date. [John Page, Director of Planning, Zoning, and Building]

1 Town Attorney Randolph read Ordinance No. 1-11 by title, as printed above.

2
3 **Motion made by Council Member Diamond, seconded by Council Member Kleid, to**
4 **approve on first reading Ordinance No. 1-11. On roll call, the motion carried unanimously.**
5

2. ORDINANCE NO. 2-11 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County Florida, Amending Chapter 134, Zoning, At Section 134-2 By Amending The Definition Of Town-Serving By Increasing The Square Foot Threshold In Certain Commercial Zoning Districts; Section 134-229 By Exempting Hotel, Motel and Timeshare Uses And The C-OPI Zoning District From The Town-Serving Requirements; Sections 134-1107, 134-1109, 134-1157, 134-1259, 134-1302 And 134-1304 By Increasing The Town-Serving Square Foot Threshold And Changing The Term Occupational License To Business Tax Receipt In The C-TS, C-WA And C-B Zoning Districts; Section 134-1259 By Changing The Term Occupational License To Business Tax Receipt In The C-PC Zoning District; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing For An Effective Date. [John Page, Director of Planning, Zoning, and Building]

6
7 Zoning Administrator Paul Castro indicated that modifications were needed in the language of
8 two words in several sections of the code that relate to business tax receipts; he said that the
9 antiquated language says “occupational license”, and that staff would like to strike that and put in
10 the words “business tax receipt” to be consistent with current statutes.

11
12 Town Attorney Randolph read Ordinance No. 2-11 by title, as printed above.

13
14 **Motion made by Council Member Diamond, seconded by Council Member Kleid to**
15 **approve on first reading Ordinance No. 2-11, including the amended language set forth by**
16 **staff. On roll call, the motion carried unanimously.**
17

3. ORDINANCE NO. 3-11 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Text Of The Future Land Use Element Of The Town Of Palm Beach Comprehensive Plan As Last Amended On August 11, 2010 With The Adoption Of Ordinance No. 3-10, By Amending The Data & Analysis In The Future Land Use Element And Amending Policy 7.3 As It Addresses Rebuilding Structures Located Seaward Of The Coastal Construction Control Line (CCCL), And Permitting Nonconforming Building And Structures To Be Rebuilt Provided Certain Conditions Are Met; Providing For Severability; Repealing All Ordinances Or Parts Of Ordinances In Conflict Hereof; Providing For Codification; And Providing For An Effective Date. [John Page, Director of Planning, Zoning, and Building]

18
19 Town Attorney Randolph read Ordinance No. 3-11 by title, as printed above.

20
21 **Motion made by Council Member Diamond, seconded by Council Member Kleid, to**
22 **approve on first reading Ordinance No. 3-11. On roll call, the motion carried unanimously.**
23
24

4. ORDINANCE NO. 4-11 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 134, Zoning, At Sections 134-419 and 134-420 By Amending the Provisions To Clarify the Regulations for Raising A Nonconforming Building To Meet the Minimum Flood Elevation Requirements and Allow A Nonconforming Building or Structure To Be Rebuilt Within A Defined Time Limit If Unintentionally Damaged Or Destroyed By Act of Terrorism Or War, Or By Fire Or Act Of God Or Nature; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing For An Effective Date. [John Page, Director of Planning, Zoning, and Building]

Town Attorney Randolph read Ordinance No. 4-11 by title, as printed above.

Director of Planning, Zoning and Building (PZB) John Page pointed out that today's first readings will not come back to the Town Council at the next meeting in May as the documents have to be transmitted to the Florida Department of Community Affairs (DCA) for approval. Once approved by DCA, they will then be brought back to the Town Council for second reading.

Motion made by Council Member Diamond, seconded by Council Member Kleid, to approve on first reading Ordinance No. 4-11. On roll call, the motion carried unanimously.

Alan Goldboro, chairman of the Planning and Zoning Commission (PZC), 2500 S. Ocean Boulevard, thanked the Town Council on behalf of many homeowners who did not realize that their buildings were built under variance codes rather than a Planned Unit Development (PUD).

Mr. Goldboro announced that the new state representatives had been invited to the June 21, 2011 PZC meeting to report on what went on in Tallahassee this session. He also encouraged the public to attend the April 19, 2011 PZC meeting so that residents can see what the Town does on their behalf.

IX. DEVELOPMENT REVIEWS

A. Appeals

B. Time Extensions & Waivers

1. Request for Waiver of Section 42-199, Hours of Construction Work, at 120 Sunset Avenue (Leverett House) (Per Letter Dated March 24, 2011 from Jay Denger)

Motion made by Council Member Diamond to approve the Request for Waiver of Section 42-122, Hours of Construction Work, at 120 Sunset Avenue (Leverett House).

PZB Director Page requested that approval be subject to the conditions in the staff report.

Amended motion made by Council Member Diamond to approve the Request for Waiver of Section 42-122, Hours of Construction Work, at 120 Sunset Avenue (Leverett House),

1 **subject to the conditions within the staff report. Council Member Kleid seconded the**
 2 **motion. On roll call, the motion carried unanimously.**

3
 4 C. Variances, Special Exceptions, and Site Plan Reviews

5
 6 1. Old Business

7
 8 None

9
 10 2. New Business

- 11
 12 a. SPECIAL EXCEPTION #9-2011 The application of Raphael Yakoby; relative to property
commonly known as 137 Woodbridge Road; described as lengthy legal description on file;
located in the R-A Zoning District. The applicant is requesting a Special Exception to allow
a set of driveway gates on Woodbridge Road (which is a dead end street) with a 7.92 foot
setback from the street pavement in lieu of the 18 foot minimum required. [Attorney:
Maura A. Ziska]

13
 14 Ex-parte communication was declared by: Council Member Kleid, Council President Rosow,
 15 and Council Member Diamond, who had conversations with Attorney Maura Ziska, where she
 16 advocated the position of her client.

17
 18 Attorney Ziska, on behalf of Mr. and Mrs. Yakoby, provided an overview of her client's request.

19
 20 Zoning Administrator Castro provided staff's comments. He noted that staff concurred with the
 21 applicant's attorney and requested that the Council approve subject to the condition of a knox
 22 box for emergency access, as well as a keypad for entry into the property, if possible.

23
 24 **Motion made by Council Member Diamond that Special Exception #9-2011 shall 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 the installation of a knox box and keypad. Council Member Kleid seconded
the motion. On roll call, the motion carried unanimously.

- 25
 26 b. SPECIAL EXCEPTION #10-2011 The application of Wells Fargo Bank, NA and Wells
Fargo Advisors, LLC; relative to property commonly known as 239, 251 & 255 South
County Road; described as lengthy legal description on file; located in the C-TS/C-B
Zoning Districts. The applicant is requesting Modifications to Special Exception #21-2010
to include the entire bank space of 26,881 square feet for Wells Fargo Bank, NA and 2,564
square feet for Wells Fargo Advisors, LLC and to eliminate the condition of approval that
the applicant meet all conditions related to signage placed on the 255 South County Road
property when the property was designated as a landmark. [Attorney: Harvey E. Oyer III]

Ex-parte communication was declared by: Council Member Kleid, Mayor Coniglio, Council President Rosow, and Council Member Diamond, who met with Attorney Harvey Oyer III and Architect Mark Marsh, where they advocated the position of their client. Council President Pro Tem Wildrick had a meeting with Attorney Oyer, who advocated the position of his client.

Attorney Oyer, on behalf of Wells Fargo Bank, with Architect Mark Marsh provided an overview of the request.

Responding to Mayor Coniglio, Zoning Administrator Castro indicated that the Town had received a letter from a neighbor at 140 Seaview Avenue expressing concern over commercial signage on Seaview Avenue.

Zoning Administrator Castro provided staff's comments.

Discussion occurred relative to signage on Seaview Avenue. Although the Town Code allows for signage to be placed along Seaview Avenue, it was not included in this request as it did not require Council approval. The applicant agreed to not place any signage along Seaview Avenue as a condition of approval.

Motion made by Council Member Diamond that Special Exception #10-2011, as amended to prohibit signage along the Seaview Avenue side of the building, shall 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. Council Member Kleid seconded the motion. On roll call, the motion carried unanimously.

- c. SITE PLAN REVIEW #6-2011 WITH SPECIAL EXCEPTION AND VARIANCES The application of Little Broad Beach Partners; relative to property commonly known as 95 North County Road; described as lengthy legal description on file; located in the C-TS Zoning District. The applicant is requesting a modification to the Site Plan and two Special Exception approval requests to convert the existing post office building located at 95 North County Road into an office building which will result in a second floor interior addition and will expand the current gross square footage from 10,656 square feet (5,651 gross leasable square feet) to 14,495 gross square footage (11,255 gross leasable square feet). The Special Exception requests are to expand the second floor area and to have an office which exceeds 2,000 square feet. Since the proposed office is in excess of 2,000 square feet, the applicant is required to obtain Town Council approval of a special exception and a finding that the proposed use is town serving. The site plan will be modified by eliminating the access driveway on the east side of the property and relocating it to the south side of the property and will also change the parking configuration. A Variance is requested to allow an office use on the first floor in the C-TS Zoning District which does not meet all of the conditions of subsection (18). The variance is to allow a first floor office use which does not meet the requirement that more than 50% of the existing first floor tenant spaces within 300 feet in the same zoning district are required to be office uses. Variances are also requested from the requirement to provide seventeen (17) additional off-street parking spaces above the amount calculated by the principal of equivalency zoning requirement to convert a 5,651 square foot post office to a 11,255 square foot office building in the C-TS Zoning District

and to not provide a loading berth as required in Section 134-2211 of the Zoning Code.
[Attorney: Maura A. Ziska]

Ex-parte communication was declared by: Council Member Kleid, Council President Rosow, and Council Member Diamond, who had conversations with Attorney Maura Ziska, who advocated the position of her client.

Attorney Ziska, on behalf of Jeff Greene, provided an overview of the request.

Architect Mark Marsh presented the following changes that were requested by the Landmarks Preservation Commission:

- Move the handicap ramp in the front, west elevation, to the rear of the building.
- Provide additional landscaping.
- Create an interior elevation showing that the important landmarked elements of the lobby would be maintained.

Zoning Administrator Castro provided staff's comments.

Concerns were raised regarding parking and use of the subject property. Mr. Castro stated that staff would work with the applicant and bring the item back, with a Declaration of Use Agreement that would address the Council's concerns, to the May 11, 2011 Town Council meeting.

Motion made by Council Member Diamond to approve deferral of Site Plan Review #6-2011 with Special Exception and Variances to the May 11, 2011, Town Council Meeting. Council President Pro Tem Wildrick seconded the motion. Upon roll call, the motion carried unanimously.

President Rosow requested that the old historic street signs around Town remain until it could be determined if the signs could remain permanently.

- d. VARIANCE #7-2011 The application of Sidney Spiegel, Trustee and Sterling Group Palm Beach, LLC; relative to property commonly known as 340 Royal Poinciana Way; described as lengthy legal description on file; located in the CPC Zoning District. The applicant is requesting to modify a condition of approval of Variance #12-2008 which required the Applicant remove all reserved and assigned parking spaces throughout the plaza along with the associated signage by October 10, 2008. The request is to allow Dr. Francis P. Conroy, DMD to retain 4 designated parking spaces until October 31, 2012. [Attorney: Maura A. Ziska]

Ex-parte communication was declared by: Council Member Kleid, Council Member Pucillo, and Council Member Diamond, who had conversations with Attorney Ziska, who advocated the position of her client.

1
2 Attorney Ziska provided an overview of the request.

3
4 Zoning Administrator Castro provided staff's comments.

5
6 **Motion made by Council Member Diamond that Variance #7-2011 be granted and found,**
7 **in support thereof, that all of the criteria applicable to this application as set forth in**
8 **Section 134-201(a), items 1 through 7 had been met, subject to removal of the signs at the**
9 **end of tenant's lease in October of 2012. Council Member Kleid seconded the motion. On**
10 **roll call, the motion carried 4-1, with Council President Pro Tem Wildrick dissenting.**
11

12
13 e. VARIANCE #8-2011 The application of Raymond W. Royce, Attorney for Owner; relative
14 to property commonly known as 756 Slope Trail; described as Lot 120 Mark Rafalsky
15 Tract, Plat Book 11, Page 51, Public Records of Palm Beach County; located in the R-B
16 Zoning District. The applicant is requesting a variance from the provisions of Section 134-
17 1729 (b) 1 which do not allow the placement of a generator of over 60kw in the setback
18 applicable to the principal structure. The applicant wishes to place an 80kw generator 5.5
19 feet in lieu of the 12.5 foot minimum setback required. [Attorney: Raymond W. Royce]

20
21 Ex-parte communication was declared by: Council Member Kleid and Council Member
22 Diamond, who had conversations with Attorney Raymond Royce, who advocated the position of
23 his client. Mayor Coniglio received a voicemail from Attorney Royce and was unable to respond
24 back. Council President Rosow spoke to Attorney Royce and Christopher Orthwein, who
25 advocated their position.

26
27 Attorney Royce, on behalf of Christopher Orthwein, provided an overview of the request.

28
29 Zoning Administrator Castro provided staff's comments.

30
31 **Motion made by Council Member Diamond the Variance #8-2011 be granted and found, in**
32 **support thereof, that all of the criteria applicable to this application as set forth in Section**
33 **134-201(a), items 1 through 7 had been met. Council President Pro Tem Wildrick seconded**
34 **the motion. On roll call, the motion carried unanimously.**
35

D. Other

28
29 a. Special Exception 17-2010 Reconsideration of Conditions of Approval. [John Page,
30 Director of Planning, Zoning, and Building]

31
32 Zoning Administrator Castro provided an overview of Special Exception #17-2010 and the status
33 of the conditions placed upon the subject property. He reported that the Town has received
34 complaints regarding parking and the loading area.

35
Discussion ensued regarding the conversion of official parking spaces after hours, and how
parking could be addressed if the business decided to open for lunch.

1
2 **Motion made by Council Member Diamond that Special Exception # 17-2010 shall be**
3 **granted, based upon the finding that such grant will not adversely affect the public interest**
4 **and that the applicable criteria set forth in Section 134-229 of the Town Code had been**
5 **met, subject to staff recommendations and the condition that, if the applicant decides to**
6 **open for lunch, the applicant must first come back before the Town Council to address**
7 **parking concerns. Council Member Kleid seconded the motion. On roll call, the motion**
8 **carried unanimously.**
9

10
11 **X. ANY OTHER MATTERS**

12 Council President Pro Tem Wildrick expressed his concern about the elimination of the Police
13 Academy from the budget. He feels it is a very important element of the relationship between the
14 police and the citizens. He stated that he has spoken with Town Manager Elwell about finding
15 another way to fund the program.

16
17 **XI. ADJOURNMENT**

18 There being no further business, the April 13, 2011, Regular Town Council meeting was
19 adjourned at 11:30 a.m.

20
21 APPROVED:

22
23
24
25 _____
26 David A. Rosow
27 Town Council President

28
29 ATTEST:

30
31
32
33 _____
34 Susan A. Owens, MMC
35 Town Clerk

TOWN OF PALM BEACH

Town Council Meeting on: May 10, 2011

Section of Agenda

Consent Agenda

Agenda Title

MINUTES: APRIL 19, 2011

APPROVAL OF THE MINUTES OF THE SPECIAL TOWN COUNCIL MEETING-
PLANTING OF SEA OATS AT PHIPPS OCEAN PARK

Presenter

Susan A. Owens, Town Clerk

Supporting Documents

- Minutes of the April 19, 2011 Special Town Council Meeting

**MINUTES OF THE SPECIAL TOWN COUNCIL MEETING
HELD ON TUESDAY, APRIL 19, 2011**

I. CALL TO ORDER AND ROLL CALL

1 The Special Town Council meeting was called to order on Tuesday, April 19, 2011 at 9:00 a.m.
2 in the Town Council Chambers. On roll call, all of the elected officials were found to be present.
3

II. PLEDGE OF ALLEGIANCE

4
5 Council President Rosow led the Pledge of Allegiance.
6

III. APPROVAL OF AGENDA

7
8 **Motion was made by Council Member Diamond and seconded by Council Member Kleid**
9 **to approve the Agenda as printed. On roll call, the motion carried unanimously.**
10

**IV. RECONSIDERATION OF THE TOWN COUNCIL'S ACTION ON APRIL 12, 2011,
REGARDING THE PLANTING OF SEA OATS AT PHIPPS OCEAN PARK. [William J.
Diamond, Town Council Member]**

11
12 **Motion was made by Council Member Kleid to adjourn the meeting until 8:30 a.m. on**
13 **April 28, 2011, just prior to the Shore Protection Board meeting. Motion died for lack of a**
14 **second.**
15

16 Council Member Pucillo asked if there were any timing issues with respect to the planting.
17 Town Manager Elwell responded that there are. He stated that if we receive a permit from the
18 Department of Environmental Protection (DEP) to plant the sea oats, the planting will be
19 required to be completed by May 1, 2011. We are expediting the process as best we can to
20 obtain the necessary permits and quotes from vendors based on the Council's action last week.
21 Mayor Coniglio asked if we could get an extension. Director of Public Works, Paul Brazil,
22 replied that DEP is unlikely to grant an extension. Town Manager Elwell added that, as a
23 practical matter, this issue will likely be mute by April 28, 2011.
24

25 **Motion was made by Council Member Diamond and seconded by Council President Pro**
26 **Tem Wildrick to rescind the Town Council's action on April 12, 2011, regarding the**

1 **planting of sea oats at Phipps Ocean Park. On roll call, the motion carried 3-2, with**
2 **Council Members Kleid and Pucillo dissenting.**
3

4 V. ANY OTHER MATTERS

5 There were none.
6

7 XIV. ADJOURNMENT

8 There being no further business, the Special Town Council Meeting of Tuesday, April 19, 2011
9 was adjourned at 9:12 a.m.
10

11 APPROVED:
12
13
14
15

16 _____
17 David A. Rosow
18 Town Council President

19 ATTEST:
20
21
22
23

24 _____
25 Susan A. Owens, MMC
Town Clerk

TOWN OF PALM BEACH

Town Council Meeting on: May 10, 2011

Section of Agenda

Consent Agenda

Agenda Title

MINUTES: APRIL 21, 2011

APPROVAL OF THE MINUTES OF THE SPECIAL TOWN COUNCIL MEETING-IAFF
IMPASSE HEARING

Presenter

Susan A. Owens, Town Clerk

Supporting Documents

- Minutes of the April 21, 2011 Special Town Council Meeting Impasse Hearing

**MINUTES OF THE SPECIAL TOWN COUNCIL MEETING
HELD ON THURSDAY, APRIL 21, 2011**

I. CALL TO ORDER AND ROLL CALL

1 The Special Town Council meeting was called to order on Thursday, April 21, 2011 at 9:00 a.m.
2 in the Society of the Four Arts Auditorium, 2 Four Arts Plaza, Palm Beach, FL 33480.

3
4 On roll call, all of the elected officials were found to be present. Also present were Town
5 Manager Peter B. Elwell, Town Attorney Jeff Mandel, Director of Human Resources Danielle
6 Olson, Town Clerk Susan A. Owens, International Association of Firefighters (IAFF) Attorney
7 Mark Floyd, IAFF representatives Joel Brier, Ricky Grau, and Joseph Sekula, and Special
8 Counsel Christine Handley.

II. PLEDGE OF ALLEGIANCE

10
11 Council President Rosow led the Pledge of Allegiance.

III. INTRODUCTIONS AND OPENING COMMENT BY CHAIR

13
14 Council President Rosow announced that today the Town Council sits as a quasi-judicial body.
15 This means that they are charged with looking at the record materials, listening closely to the
16 presentations of the parties, and ultimately making a determination on how the imposed articles
17 of the collective bargaining agreements for the Town firefighters, both the supervisory and non-
18 supervisory units, shall be resolved.

19
20 Council President Rosow explained the process for these proceedings. We will hear
21 presentations from the IAFF and Town Management, we will receive public comment, and then
22 the Council will vote. Council President Rosow announced that the Council's decisions today
23 will be based on the presentations heard, and the materials submitted to the Council by both
24 sides.

25
26 He announced that both parties have agreed that the Town will present its case first. Each side
27 will have one hour to make their presentations. Council President Rosow asked IAFF Attorney
28 Floyd if Local 2928 wished to reserve any of their time for rebuttal. Mr. Floyd answered that
29 they did not. Council President Rosow asked Town Attorney Mandel if the Town wished to
30 reserve any of its time for rebuttal. Mr. Mandel stated that the Town wished to reserve any time
31 leftover from their presentation for rebuttal. [1:00-12:40]

IV. PRESENTATIONS BY LABOR AND MANAGEMENT

Town Manager Elwell and Town Attorney Mandel presented Management's case. During their presentation they stated that, while Management recommends that the Town Council adopt their proposed language for Article 14 (Drug and Alcohol Testing) and Article 38 (Sick Leave and Injury Time), Management would have no objection to the Town Council adopting the Union's proposed language for those two Articles. The Union's proposed language on these two Articles is an incorporation of the Special Magistrate's recommendations. Town Manager Elwell emphasized that, while Management believes their language is preferable, they do not feel as strongly about these two issues, and that they can live with the Union's proposed language.

[12:50-40:35]

Council Member Diamond asked Town Manager Elwell if there was anything in Management's proposal that would result in a reduction of force. Town Manager Elwell replied that there was not. Council President Pro Tem Wildrick asked that, if Management is willing to accept the Union's language on Articles 14 and 38, is the Town changing its proposal at this time? Town Attorney Mandel stated that Management is not changing its proposal, what we are saying is, in the spirit of cooperation, we can live with those terms. It accomplishes most of what we want. Town Manager Elwell elaborated that Management is differentiating those two items from the rest because we do not feel as strongly about the Town's position on those as we do about the other five. [40:35-42:30]

IAFF Attorney Floyd presented the Union's case. At the conclusion of his presentation, Mr. Floyd requested that the Council adopt the recommendations of the Special Magistrate on every issue, except the pension, in which case he hopes that the Council will adopt the recommendations of the Union. [43:30-1:43:45]

Town Manager Elwell and Town Attorney Mandel took their remaining time for rebuttal. [1:44:00-2:15:40]

V. QUESTIONS BY TOWN COUNCIL

Council Member Kleid asked Town Manager Elwell to respond to Mr. Floyd's comment regarding potential prejudice by supervisors in determining longevity pay. Town Manager Elwell replied that performance evaluation is essential, but recognized that there is some element of subjectivity. Management has the responsibility to ensure that we have a fair system that is properly administered with maximum objectivity and consistency. We did propose how this might be implemented in a way that would create some distinction between the pools available; however, we did not receive a counterproposal from the Union.

Council Member Kleid asked Mr. Floyd if he knew what percentage of firefighters who retire earlier than age 65 seek other employment during this period of time. Mr. Floyd stated that he did not; most likely no one has these statistics.

Council Member Pucillo asked Mr. Floyd for clarification regarding Kelly Days. It appears that both the Management and Union proposals would result in some level of unpaid hours. Mr.

1 Floyd stated that was not correct. The Union's proposal only extends the threshold required to
2 earn overtime. The firefighters would be paid the straight time rate from the old threshold of 144
3 hours to the proposed new threshold of 159 hours, thereby reducing the amount of overtime by
4 fifteen hours. Firefighters currently work 2,496 hours per year, this would still be true under the
5 Union's proposal. Under the Town's proposal, firefighters will now work 2,912 hours per year,
6 416 hours more. He stated that these will not be unpaid hours; they will just be working these
7 additional hours for no additional pay.

8
9 Council Member Pucillo stated to Mr. Floyd that under the Town's proposal, it seems that
10 individual firefighters could receive an average of 156 hours of overtime, paid at time and a half.
11 He inquired if this would mean that individual firefighters may actually do better. Mr. Floyd
12 said that they would not; they would be receiving 76 hours of additional pay to work 416
13 additional hours.

14
15 Council Member Diamond asked Town Manager Elwell again if there were any reductions in
16 force proposed in Management's proposal. Town Manager Elwell replied that, if the Council
17 approves what we are recommending today, there would be no layoffs of firefighters.

18
19 Council President Pro Tem Wildrick asked Town Manager Elwell to clarify Management's
20 pension proposal. If a firefighter retires before he is 65 years old, will he have to wait until he is
21 65 to get his pension under the current system? What happens to what our current employees
22 have already accrued? Town Manager Elwell responded that that which has been earned will be
23 kept and can be collected in accordance with the existing rules today. What we are proposing are
24 changes in the programs going forward. The portion of the pension paid out for the existing
25 years of service will be paid out under the existing rules. Any years of service performed after
26 the changes go into effect will be paid out under the proposed new rules.

27
28 Council President Pro Tem Wildrick asked Town Manager Elwell how an individual could
29 collect more in pension than his final base salary. Town Manager Elwell responded that this
30 occurs when an individual works a substantial amount of overtime in their final years with the
31 Town. When they retire, their average final compensation calculation includes not only the base
32 pay, but also the overtime, longevity, and other factors.

33
34 Council Member Kleid asked Town Manager Elwell about Mr. Floyd's comments regarding F.S.
35 175. If there is a change in Tallahassee that doesn't match with our program, would we no
36 longer be free to use F.S. 175? Town Manager Elwell replied that the wording we have
37 proposed does suggest that the trigger for the Town to unilaterally stay in F.S. 175 would be,
38 being able to continue to receive those funds and implement all of the changes recommended.
39 [2:15:45-2:34:45]

40
41 **VI. PUBLIC COMMENTS**

42 Carol Simmons, 201 Banyan Road, spoke regarding the status of the Firefighters' Pension Fund.
43 [2:37:00]

44
45 Joel Brier, address exempt per F.S., spoke in support of the Union's proposal. [2:38:30]

**MINUTES OF THE SPECIAL TOWN COUNCIL MEETING (IAFF IMPASSE HEARING)
HELD ON THURSDAY, APRIL 21, 2011**

1 Danny Dunnam, address exempt per F.S., spoke in support of the Union's proposal. [2:41:30]

2
3 Pat Cooper, 261 Sanford Avenue, spoke in support of Management's proposal. [2:44:30]

4
5 Ed Robinson, 217 Clarke Avenue, spoke in support of Management's proposal. [2:47:45]

6
7 John Pohanka, 369 S. Lake Drive, spoke in support of Management's proposal. [2:49:45]

8
9 Deborah Robinson, 217 Clarke Avenue, spoke in support of the Union's proposal. [2:50:55]

10
11 Jayson French, address exempt per F.S., spoke in support of the Union's proposal. [2:53:55]

12
13 Peter McGrane, address exempt per F.S., spoke in support of the Union's proposal. [2:54:40]

14
15 Scot McCluskey, address exempt per F.S., spoke in support of the Union's proposal. [2:55:45]

16
17 Anne Pepper, 333 Seaspray Avenue, spoke in support of Management's proposal. [2:58:40]

18
19 Susan Markin, 1450 N. Lake Way, spoke in support of Management's proposal. [2:59:55]

20
21 Fred Angelo, address exempt per F.S., spoke in support of the Union's proposal. [3:02:10]

22
23 Doug Watler, address exempt per F.S., spoke in support of the Union's proposal. [3:05:20]

24
25 Owen Larkin, 315 S. Lake Drive, spoke in support of Management's proposal. [3:07:25]

26
27 Quincy Schider-Heisel, address exempt per F.S., spoke in support of the Union's proposal.
28 [3:08:40]

29
30 David Burke, address exempt per F.S., spoke in support of the Union's proposal. [3:10:55]

31
32 Keith Golden, address exempt per F.S., spoke in support of the Union's proposal. [3:11:55]

33
34 Mark Bradshaw, address exempt per F.S., spoke in support of the Union's proposal. [3:12:40]

35
36 Mary Weiss, 529 S. Flagler Drive, had her comments supporting the Union's proposal read into
37 the record. [3:14:15]

38
39 Susan Watts, 455 Worth Avenue, had her comment that she makes \$44,269.92 a year in
40 retirement pay read into the record. [3:15:15]

41
42 Mr. & Mrs. R. Foster, 64 Via Mizner, had their comments supporting Management's proposal
43 read into the record. [3:15:30]

44
45 Mary & Gordon Reed, 231 Chilean Avenue, had their comments supporting Management's
46 proposal read into the record. [3:15:40]

1 Frederick McCarthy, 1519 N. Ocean Way, Palm Beach, had his comments supporting
2 Management's proposal read into the record. [3:16:05]

3
4 John Cunningham, 353 El Brillo Way, Palm Beach, had his comments supporting Management's
5 proposal read into the record. [3:16:25]

6
7 Bob Guthrie, 320 Island Drive, Palm Beach, had his comments supporting Management's
8 proposal read into the record. [3:19:30]

9
10 Emmy Wildrick, Plantation Road, Palm Beach, had her comments supporting Management's
11 proposal read into the record. [3:19:50]

12
13 **VII. MOTIONS**

14 **Motion was made by Council Member Diamond and seconded by Council President Pro**
15 **Tem Wildrick to adopt the recommendations of the Town in their entirety, with respect to**
16 **Articles 14 (Drug and Alcohol Testing), 16 (Promotions), 17 (Wages), 18 (Work Week), 19**
17 **(Overtime), 38 (Sick Leave and Injury Time), and 41/30 (Retirement Benefits)-included in**
18 **the Union materials as Article 30 (Insurance and Miscellaneous Benefits) and included in**
19 **the Town materials as Article 41-in the Non-Supervisory Collective Bargaining Agreement**
20 **and their companion Articles in the Supervisory Collective Bargaining Agreement.**

21
22 Council Member Kleid stated that he thought the Council should vote on each individual Article
23 as the Town has stated that they are open to a compromise on Articles 14 and 38. Council
24 Member Pucillo echoed Council Member Kleid's comments.

25
26 Council President Rosow stated that it was his understanding that Management and the Union
27 have agreed to the Union's position on Articles 14 and 38. Attorney Floyd responded that they
28 have not. Town Manager Elwell reiterated that the Town still believes that Management's
29 proposals on those two Articles are better; but, the Town's opinion of those is that they are not
30 nearly as significant as the other issues, and that the Town could live with the Union's position
31 adopting the Special Magistrate's recommendations on those two Articles.

32
33 **On roll call, the motion carried 3-2, with Council Members Kleid and Pucillo dissenting.**

34
35 Council President Rosow announced that the seven conditions as outlined by the Town's
36 proposal have been adopted by the Town Council. [3:21:00:-3:28:00]

VIII. ADJOURNMENT

There being no further business, the Special Town Council Meeting of Thursday, April 21, 2011 was adjourned at 1:23 p.m.

APPROVED:

David A. Rosow
Town Council President

ATTEST:

Susan A. Owens, MMC
Town Clerk

TOWN OF PALM BEACH

Town Council Meeting on: May 10, 2011

Section of Agenda

Consent Agenda

Agenda Title

MINUTES: MAY 2, 2011

APPROVAL OF THE MINUTES OF THE SPECIAL TOWN COUNCIL MEETING
CLOSED-DOOR SESSION-TOWN OF PALM BEACH VS USA

Presenter

Susan A. Owens, Town Clerk

Supporting Documents

- Minutes of the May 2, 2011 Special Town Council Meeting Closed-Door Session

**MINUTES OF THE SPECIAL TOWN COUNCIL MEETING
HELD ON MONDAY, MAY 2, 2011**

I. CALL TO ORDER AND ROLL CALL

The Special Town Council meeting was called to order at 9:30 a.m. on Monday, May 2, 2011, in the Town Council Chambers. On roll call, all of the elected officials were found to be present.

II. APPROVAL OF AGENDA

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

III. TOWN OF PALM BEACH VS THE UNITED STATES OF AMERICA, CIVIL ACTION NO. 09-64 L, IN THE UNITED STATES COURT OF FEDERAL CLAIMS.

F.S. 286.011(8) allows the Mayor, Town Council, and the Town Manager to meet in a Closed-Door Attorney/Client Session for the purpose of discussing strategy related to litigation.

Council President Rosow announced the following:

- a.) The Attorney/Client Closed-Door Session
- b.) The estimated time is thirty minutes
- c.) The names of the persons attending:
 - Gail L. Coniglio, Mayor
 - David A. Rosow, Town Council President
 - Robert N. Wildrick, Town Council President Pro Tem
 - William J. Diamond, Town Council Member
 - Richard M. Kleid, Town Council Member
 - Michael J. Pucillo, Town Council Member
 - Jerry Stouck, Town Attorney
 - Peter B. Elwell, Town Manager
 - Ley and Marsaa, Court Reporters

At 9:30 a.m., the persons attending the meeting (listed above) relocated from the Town Hall Council Chambers to the immediately adjacent conference room.

**MINUTES OF THE SPECIAL TOWN COUNCIL MEETING (TPB v. USA)
HELD ON MONDAY, MAY 2, 2011**

**IV. RECONVENE SPECIAL TOWN COUNCIL MEETING IN THE TOWN HALL
COUNCIL CHAMBERS**

A.) Call to Order

The Special Town Council meeting was reconvened at 10:57 a.m., in the Town Council Chambers.

B.) Town Council President to Announce the Termination of the Attorney/Client Session.

Council President Rosow announced the termination of the Attorney/Client Session. He stated that the Town Council listened to a report from its Attorney, regarding its litigation against the United States of America, and provided him with instructions as to how to proceed in the next several weeks as to this litigation.

V. ANY OTHER MATTERS

There were none.

VI. ADJOURNMENT

There being no further business, the Special Town Council Meeting of Monday, May 2, 2011 was adjourned at 10:58 a.m.

APPROVED:

David A. Rosow
Town Council President

ATTEST:

Susan A. Owens, MMC
Town Clerk

TOWN OF PALM BEACH

Town Council Meeting on: May 10, 2011

Section of Agenda

Consent Agenda

Agenda Title

Approval of Major Matters Considered by the Architectural Commission at its Meeting of April 27, 2011.

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Memorandum dated May 3, 2011, from John S. Page, Director of Planning, Zoning and Building
- Minutes of the Architectural Commission meeting of April 27, 2011

TOWN OF PALM BEACH

Information for Town Council Meeting on: May 10, 2011

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: John S. Page, Director of Planning, Zoning & Building

Re: Approval of the Architectural Commission Meeting Minutes of April 27, 2011

Date: May 3, 2011

STAFF RECOMMENDATION

Staff recommends that the Town Council approve the major items that were approved by ARCOM at the regularly scheduled meeting of April 27, 2011.

BOARD OR COMMISSION RECOMMENDATION

The Architectural Commission recommends that the Town Council approve the major items which were considered at the regularly scheduled meeting of April 27, 2011.

GENERAL INFORMATION

These minutes are submitted to the Town Council for approval pursuant to Chapter 18-177 of the Town of Palm Beach Code of Ordinances.

Attachment

JSP:cmd



MINUTES
ARCHITECTURAL COMMISSION
IN THE TOWN COUNCIL CHAMBERS
2ND FLOOR, 360 SOUTH COUNTY ROAD
PALM BEACH, FL

WEDNESDAY, APRIL 27, 2011, 9:00 a.m.

Please be advised that in keeping with a recent directive from the Town Council, the minutes of all Town Boards and Commissions will be “abbreviated” in style. Persons interested in listening to the meeting, after the fact, may access the audio of that item via the Town’s website at www.townofpalmbeach.com or may obtain an audio recording of the meeting by contacting Cindy Delp, Secretary to the Architectural Commission at (561) 227-6408. As a point of reference, you will find the recording times listed on these minutes at the beginning of each item.

I. CALL TO ORDER (8:59:17 a.m.)

Chairman Smith called the meeting to order at 9:00 a.m.

II. ROLL CALL (8:59:21 a.m.)

Jeffery W. Smith, Chairman	PRESENT
Robert J. Vila, Vice Chairman	PRESENT
Kenn Karakul, Member	PRESENT
Nikita Zukov, Member	PRESENT
Ann L. Vanneck, Member	PRESENT
Henry Homes III, Member	PRESENT
Alex Hufty Griswold, Member	PRESENT
Martin D. Gruss, Alternate Member	PRESENT
Peter I. C. Knowles II, Alternate Member	PRESENT
Alexander C. Ives, Alternate Member	PRESENT

Staff members present were John C. Randolph, Town Attorney, John Page, Director of Planning, Zoning & Building, John Lindgren, Planning Administrator, and Cynthia Delp, Secretary to the Architectural Commission.

III. PLEDGE OF ALLEGIANCE (8:59:41 a.m.)

IV. APPROVAL OF THE MINUTES FROM THE MARCH 23, 2011 MEETING (8:59:59 a.m.)
MOTION BY MR. KARAKUL FOR APPROVAL OF THE MINUTES.
MOTION SECONDED BY MRS. VANNECK.
MOTION CARRIED UNANIMOUSLY.

V. APPROVAL OF THE AGENDA : (9:00:17 a.m.)

MOTION BY MR. KARAKUL FOR APPROVAL OF THE AGENDA.

MOTION SECONDED BY MRS. VANNECK.

MOTION CARRIED UNANIMOUSLY.

VI. ADMINISTRATION OF THE OATH TO PERSONS WHO WISH TO TESTIFY (9:00:28 a.m.)

Mrs. Delp administered the oath at this time and as necessary throughout the meeting.

VII. OTHER BUSINESS: (9:00:48 a.m.) None

VIII. PROJECT REVIEW (9:00:55 a.m.)

A. MAJOR PROJECTS - OLD BUSINESS: None

B. MAJOR PROJECTS - NEW BUSINESS: (9:00:59 a.m.)

B - 013 - 2011 New Residence

Address: 221 Jamaica Lane

Applicant: Licinio Cruz

Architect: Roger Janssen of Daily Janssen Architects

Project Description: Proposed new two-story residence with 4,051 air conditioned square feet with entry gate, pool, hardscape and landscape on vacant lot at 221 Jamaica Lane; Roof: white flat cement tile; Building Color: Off-white; Trim Color: White; Shutter Color: Black-Green

Call for disclosure of ex parte communication: Several members made ex parte declarations

Architect Roger Janssen presented this request for a new residence on a vacant lot, as described above. Additional elements of project: Motor court with entry gates; side loaded two-car garage; pool in northwest corner; double hung windows; mahogany entry door; white stucco walls on first floor level; lap siding (stucco to look like wood) on second floor level; series of covered loggias, pergolas and balconies in rear overlooking pool courtyard; and, one story family wing on east side. Landscape architect Chuck Yanette of Parker Yanette Design Group presented the landscape and hardscape. Some elements of landscape/hardscape include, but are not limited to: brick driveway; gate columns with sliding entry gate; main entrance flanked by two Canary Island Date Palms; light colored tumbled marble rear patio; patio under pergola in rear; 26'x14' pool with raised spa in corner and small patio to the side; use of Ficus hedge, Gumbo Limbo, Foxtail Palms, Coconut Palms, Sabal Palms, Bougainvillea, and Adonidia Palms to name a few; rear buffer of Foxtails and Fishtails; and, uplighting on several trees.

Commission comments: Concern regarding seeds from Fishtail Palms dropping onto neighbor's property; puzzled by stairwell windows; front dormer overly large; design is unpleasingly asymmetrical; rear elevation-too much going on; two different types of French door systems; problem with only intermittent use of shutters; and, expressed concern from neighbors relative to flooding in the area.

At this point, there was a discussion relative to drainage issues and flooding in this location. Mr. Lindgren testified that the Town Engineer had signed off on the drainage for the property. Mr.

Lindgren maintained that this site, when constructed, will not negatively impact the drainage on the street.

Commission comments continued: Siding at second floor level questionable; too many chimneys; perhaps remove the purely decorative chimneys; second story sconces too bright and may bother the neighbors; if the street drainage cannot handle any additional water, the problem will be compounded; refreshing variation, but needs to be simplified; garage dormer stands out too much; reconsider rear fenestration for less glass; style questionable; design is maxed out; problem with copper chimney treatments; biggest issue is with the dormers which are out of scale; problems with doors and windows; mahogany door jumps out at you; removing the dormers and the chimneys will reduce the mass; shutter issues; and, no gutter system (mentioned later).

**MOTION BY MR. KARAKUL TO DEFER TO THE MAY MEETING FOR RE-STUDY.
MOTION SECONDED BY MR. VILA.**

Let the record show that Mr. Lindgren read an e-mail from Thomas Parker, 215 Jamaica Lane, into the record, after which Mr. Parker addressed the commission. His primary concerns with the project relate to flooding issues and noise issues due to generator placement. Robin and Bill Weeks, 210 Jamaica Lane, addressed the commission regarding concerns with flooding and with the proposed entry gates.

Due to the expressed concerns relative to drainage and flooding, Mr. Page contacted Paul Brazil, Director of Public Works. He reported that if this project is deferred, a Town Engineer will participate in the next meeting relative to this property. Also Mr. Brazil indicated that no recent Town improvements have been made to the drainage in the area, but no complaints have been received from neighbors either. Mr. Smith recommended that the architect contact Public Works relative to the drainage issues. Mr. Gruss remarked that the drainage problems in the street should not be attributed to this applicant.

MOTION CARRIED UNANIMOUSLY.

B - 014 - 2011 Demolition of Guest House, Gates and Piers

Address: 854 S. County Road

Applicant: Joel Kasewitz

Architect: Roger Janssen of Dailey Janssen Architects

Project Description: Demolition of existing two-story guest house (3,384 total square feet, with 2,178 air conditioned square feet); New piers and entry gates for existing residence - entry piers to be stucco over CMU and the entry gates will be iron wrapped in cedar with iron details

Call for disclosure of ex parte communication: Several members made ex parte declarations

Prior to discussion of this project, Mrs. Vanneck requested that future mini-sets include the demolition report and associated photos. Mr. Lindgren responded that the ARCOM application can be modified to include the request for this information. He added that at last week's LPC meeting, the LPC stressed the importance of photo documentation with regard to demolition projects, and asked that ARCOM make demolition approvals conditioned upon providing the Town access to the proposed demolition site to photograph the exterior and the interior.

Architect Roger Janssen requested the demolition of the existing two-story guesthouse at the south property line. He stated that the structure was built in 1928; that there is no architect or builder noted in the Town's records; that it is a CBS structure with a flat roof; and, that the structure is in poor condition.

As for the new entry gates, they will be stained solid cypress gates with metal hardware, and there will be two new piers behind the existing two piers.

MOTION BY MR. ZUKOV FOR APPROVAL OF THE DEMOLITION, WITH THE CONDITION THAT THE APPLICANT PROVIDE PHOTOS OF THE INTERIOR SPACES AND EXTERIOR OF THE STRUCTURE.

MOTION SECONDED BY MR. VILA.

MOTION CARRIED UNANIMOUSLY.

Regarding the gate design, some members felt that the gates do not relate to the architecture of the house, and the taller piers (behind the shorter piers) look odd. Mr. Janssen responded that the property owner wants a solid wood gate.

MOTION BY MR. ZUKOV FOR APPROVAL OF THE GATE AS PRESENTED.

MOTION SECONDED BY MR. KARAKUL.

MOTION FAILED 3-4, WITH MRS. VANNECK, MR. HOMES, MR. GRISWOLD AND MR. SMITH OPPOSED.

Some members who voted against the gate thought it would be more acceptable if the gate was painted white, grey or beige. Mr. Smith stated he had no objection to a solid gate.

MOTION BY MRS. VANNECK FOR DEFERRAL OF THE GATE.

MOTION SECONDED BY MR. KARAKUL.

MOTION CARRIED 6-1, WITH MR. ZUKOV OPPOSED.

B - 018 - 2011 New Entry Gate

Address: 137 Woodbridge Road

Applicant: Raphael Yakoby

Architect: Mario Nievera Design Inc.

Project Description: New entry gate

Call for disclosure of ex parte communication: Mr. Griswold made an ex parte declaration.

Keith Williams of Mario Nievera Design Inc. provided the presentation. He stated that the Town Council had granted a Special Exception for the placement of the gate closer to the road. The dark bronze aluminum gate, attached to existing columns, is 14 ft. wide and ranges from 5 ft. to 7 ft.- 6 in. in height. Gate detailing mimics detailing on the front door.

Some members approved of the design, while others felt simplification was in order. Members called attention to a second set of wood gates at the site.

MOTION BY MR. HOMES FOR APPROVAL OF THE GATES AS PRESENTED.

MOTION SECONDED BY MR. KARAKUL.

MOTION CARRIED, 5-2, WITH MRS. VANNECK AND MR. VILA OPPOSED.

B - 021 - 2011 Motorized gate; exterior finishes; landscape/hardscape changes

Address: 1090 North Lake Way

Applicant: 1090 North Lake Way LLC

Architect: Thomas M. Kirchhoff, AIA, PA

Project Description: Replace existing cast stone cladding with travertine cladding. Limited hardscape and landscape changes. New motorized vehicular gate. Additional minor exterior finish revisions.

Call for disclosure of ex parte communication: Several members made ex parte declarations.

Architect Thomas Kirchhoff and Jorge Sanchez of Sanchez and Maddux, Landscape Architects, presented this project. Mr. Kirchhoff outlined the project as a re-do of the driveway, addition of gates, re-do of the hardscape, changes to the stone cladding on the home, and changes to railings. The wall material is to be changed to travertine and the horizontal stone is to be changed to coral. In the rear, the proposal would remove the existing railings and replace them with new railings which include a painted aluminum privacy panel within the railing. A larger privacy panel, painted light grey, is proposed to be cantilevered off the roof deck. The gate system includes two sliding gates: one painted blue with a window in front of a stainless steel gate behind.

Commission comments: Maybe a dusted, etched or frosted glass panel would be preferable to painted panel for large privacy panel and railing panels; gate design, with color, is questionable.

Jorge Sanchez presented the landscape/hardscape plan, including, but not limited to: Remove tall Ficus hedge and replace with 14 ft. Podocarpus; rectangular, flat water pool in the front, 18" deep, with blue glass tiles; reduce size of certain terraces and walkways; eliminate hardscape around the rear pool; add glass tiles to pool; terrazzo gravel driveway; roll away flat shutters in rear for inclement weather; simple serpentine landscape border; extend berm for more topography on the lakeside; add a few palms on lakeside and re-do seawall.

Commission comments continued: Landscape is very nice; shape of gate is acceptable, but not the color; project needs restudy, especially with regard to painted panels and gate; inserting painted panels detracts from architecture of house; blue color is jarring on gate; metal panels and railings questionable; it is fine to change the railings, but this proposal is not an improvement.

MOTION BY MR. KARAKUL TO APPROVE THE STONE CHOICES, THE LANDSCAPE PLAN, AND DRIVEWAY PLAN, BUT TO COME BACK FOR FUTHER RE-STUDY OF THE GATE, THE PANEL ABOVE THE FRONT DOOR, AND THE INSERTS IN THE RAILINGS.

MOTION SECONDED BY MR. HOMES.

MOTION CARRIED UNANIMOUSLY.

B - 022 - 2011 Demolition of home

Address: 254 Jungle Road

Applicant: K. Prescott Low and Susan Tucker Low

Architect: Robert L. Bell, Architect, P.A.

Project Description: Demolition of existing home

Call for disclosure of ex parte communication: Several members made ex parte declarations.

Let the record show that the architect was not present. The project was presented by M. Timothy Hanlon, Attorney, and Don Skowron, Landscape Architect. Mr. Hanlon indicated that the property owner is happy to accept a conditional approval and to allow the house to be photographed, both interiorly and exteriorly. As to the demolition report, Mr. Hanlon stated that the two-story home (3823 sq. ft.) was built in 1930, was designed by Treanor and Fatio, and, has had minor additions since 1949. Mr. Skowron stated that a 12 ft. Ficus hedge will be placed along the front property line; two palms will be relocated elsewhere on site; and the remainder of the property will be grass.

Chairman Smith asked the applicant for photos of the house to be demolished. None were included in the presentation. Chairman Smith stated he could not approve demolition without first seeing the structure to be demolished, and deemed the application incomplete.

Attorney Randolph read from the Code as it relates to criteria for approval of demolition requests at ARCOM... "a demolition permit shall be granted upon the following conditions being met: (1) the property is not designated a landmark, and is not included on a list of properties within the Planning, Zoning & Building Department placed under consideration as a landmarked structure." Chairman Smith and staff noted that while photographs may not currently be a requirement of an application for demolition, it is certainly the expected practice of applicants requesting demolition to provide a photograph of the home to be demolished. The ARCOM application will be updated to absolutely include this specific requirement.

MOTION BY MR. KARAKUL FOR DEFERRAL TO THE END OF THE MEETING, TO ALLOW THE APPLICANT TO RETURN WITH PHOTOS TODAY.
MOTION SECONDED BY MR. VILA.
MOTION CARRIED UNANIMOUSLY.

Mr. Randolph was asked to read the code provisions again relative to demolition projects.

Ted Cooney, 495 North Lake Way, referred back to discussions which occurred at the LPC meeting last week with regard to demolition. Since the Town Council has been reluctant to approve ordinance changes with respect to demolition, policies and procedures have been put in place to address how such matters should be handled. He commented that the applicant submitted too little information, and staff should have insisted on a complete application.

Mrs. Vanneck commented that some homes proposed for demolition come to ARCOM in such disrepair, that the owners should be cited for allowing the property to deteriorate to that level.

**At the end of the meeting, this item was recalled. Mr. Smith stated that he had been provided, by e-mail, two photos of the existing structure, and he passed those photos to the other members.

MOTION BY MR. VILA FOR APPROVAL OF THE DEMOLITION WITH THE USUAL CONDITIONS FOR SODDING AND IRRIGATING AND WITH THE CONDITION THAT THE PROPERTY IS FULLY PHOTOGRAPHED, INTERIORLY AND EXTERIORLY PRIOR TO DEMOLITION.
MOTION SECONDED BY MR. ZUKOV.
MOTION CARRIED UNANIMOUSLY.

Let the record show that there was a short recess at this point. The meeting reconvened at 11:07 a.m.

B - 023 - 2011 Demolition; Construction of new residence

Address: 445 Antigua Lane

Applicant: 416 Brazilian Avenue LLC

Architect: Roger Janssen with Dailey Janssen Architects, P.A.

Project Description: Demolition of existing residence, pool and hardscape; Construct new Island Colonial two-story residence, guest house, pool, hardscape and landscape; Roof: Cedar Shake; Building Color: white; Trim Color: buff; Shutter Color: white

Call for disclosure of ex parte communication: Several members made ex parte declarations

Architect Roger Janssen presented this request, and used a model of the residence during the presentation. Mr. Janssen provided the demolition report for this one-story 1982 home, including photographs. Chuck Yanette of Parker Yanette Landscape Architects discussed the landscaping which will remain on site. He stated that much of the existing buffer will remain in place; some trees and shrubs will be removed; some trees will be relocated elsewhere on site; and, the large Kapok tree will remain at the south property line. As for the new two-story house and the new two-story detached guest house: Proposed with a stucco exterior with coral stone cladding and balustrades, mahogany French doors, casement windows, and, Ludowici terra cotta tiles; fountain at the main entrance; Royal Palms flank entrance to home; mixture of palm trees on site; and, Old Chicago Brick driveway with coral border. Mr. Janssen stated that his client would like to add a landscape island (with large Ficus) within the cul de sac, but that is not part of this request. Mr. Yanette gave an overview of the entire proposed landscape plan.

Commission comments: Attachment of balcony beams to coquina odd; neighbors are concerned about scale of house; this house projects closer to the lake than any of the neighboring houses along the lake; questionable use of materials and colored roof and blue elements in this Island Colonial; care must be taken during demolition because the Kapok tree is so close to the house; remove the chain link fence to the south which is entwined in the Kapok, Fishtail palms on the property line are messy for neighbors; least successful part is the north side projection of the master bedroom and family room; mostly concerned with the west elevation; north wing projects so far forward and may negatively impact the neighbors; detailing is ambitious, but full of areas that need to be reconsidered; west elevation - amount of fenestration is out of control; north elevation-all of keystones are missing their arches; surrounds on second story windows out of proportion; entire project - detailing needs re-study; parking spaces along the 12 ft. strip around the cul de sac mentioned; model is great; does not look like same house east vs. west elevation; biggest issue - disturbing - to have loggia downstairs and cantilevered balconies above on top of spindly columns; guesthouse with exterior stair so tall and skinny - looks like staff quarters - out of proportion with itself; blue elements questioned; mahogany railings questioned; like the Ludowici roof; bay window at library so out of proportion; this would be the only two story guesthouse on the lake; the blue and red elements detract from the Bermuda look.

Mr. Lindgren noted that one letter from a concerned neighbor was received. That neighbor is Bill Metzger, 277 Esplanade Way, who was present and addressed the commission. Mr. Metzger and his wife, Anne, are adjoining property owners to the east of this property, at 433 Antigua Lane, a property which they have owned for many years and hope to build a new home there. Mr.

Metzger expressed concerns about the style and large size of this home. He referred to it as “an assembly of architectural elements in search of a design” and “a confusing buffet of unrelated building parts.” He also expressed concern about the location of utility equipment and the noise generated by it, and suggested that these systems be located far from their shared property line. Lastly, Mr. Metzger was concerned that he and his wife had not been contacted by the developers prior to the submission of the project, with respect to possible changes to the cul de sac which is a common roadway for all property owners on the street.

Ms. Susanne Frisbee, property owner of 445 Antigua Lane, stressed the fact that the purpose of the design and its positioning on the lot is to showcase the spectacular Kapok tree. The chain link fence entwined in the tree is not owned by the Frisbees. The root barrier of the Kapok tree will be removed and the tree roots will be allowed to come toward the house. Regarding projecting to the north, unless that neighbor decides to remove the large Banyan, this house will not impede his view. Ms. Frisbee acknowledged that the house is large on a large lot, and they want the design to be an authentic addition to the lakefront. She also indicated that they are happy to make no donated improvements to the cul de sac if changes to it are not well received.

Mr. Vila thanked Ms. Frisbee for her remarks and explanation of the design with its focus on the Kapok tree. He felt the use of the site was generally successful.

**MOTION BY MR. VILA TO DEFER THE PROJECT FOR FURTHER STUDY OF
DETAILING OF FACADES, ESPECIALLY THE LAKESIDE FAÇADE.**

MOTION SECONDED BY MR. KARAKUL.

MOTION CARRIED UNANIMOUSLY.

**MOTION BY MRS. VANNECK FOR APPROVAL OF THE DEMOLITION WITH THE
USUAL CONDITIONS FOR SODDING AND IRRIGATING, PLUS A REQUIREMENT
FOR PHOTO DOCUMENTATION OF THE INTERIOR AND EXTERIOR.**

MOTION SECONDED BY MR. VILA.

MOTION CARRIED UNANIMOUSLY.

B - 024 - 2011 Demolition of residence

Address: 221 El Vedado Road

Applicant: Cynthia B. Moran

Architect: Michael J. Johnson

Project Description: Demolish existing residence

Call for disclosure of ex parte communication: Several members made ex parte declarations

Michael Johnson and Hunter Johnson presented this request for demolition of this 1927 Treanor and Fatio single family residence. Hunter Johnson provided the demolition report, discussed the landscaping to remain on the site, and provided photos of the existing home. He indicated that the front hedge material would be removed, and replaced with a similar hedge after demolition is complete.

MOTION BY MRS. VANNECK FOR APPROVAL OF THE DEMOLITION WITH THE CAVEATS THAT THERE BE FULL PHOTO DOCUMENTATION OF THE EXISTING HOME BY LPC STAFF, BOTH INSIDE AND OUTSIDE; THAT THE PROPERTY BE SODDED AND IRRIGATED; AND THAT THE HEDGE BE REPLACED IN GOOD CONDITION.

MOTION SECONDED BY MR. VILA.

MOTION CARRIED UNANIMOUSLY.

B - 025 - 2011 Additions and Renovations

Address: 256 West Indies Drive

Applicant: Mr. and Mrs. Peter Hicks

Architect: Carlos A. Bonilla with Bonilla Torregroza Architecture LLC

Project Description: One-story garage and entry porch additions; master and guest bedroom renovations

Please note that the owner has requested deferral to the May meeting.

Let the record show that Mrs. Vanneck filed a Voting Conflict form with respect to this project.

MOTION BY MR. KARAKUL FOR DEFERRAL TO MAY.

MOTION SECONDED BY MR. HOMES.

MOTION CARRIED UNANIMOUSLY.

B - 026 - 2011 Time Extension

Address: 200 La Puerta Way

Applicant: J. B. & Carrie Murray

Architect: The Pandula Architects, Inc.

Project Description: Time extension for previously approved project, including demolition of existing residence, new British Colonial style residence and landscape/hardscape

Call for disclosure of ex parte communication: Messrs. Homes and Griswold made ex parte declarations.

Architect Eugene Pandula stated that this project was presented a year ago and received unanimous approval at that time, but permitting and construction was delayed. The project is ready to be submitted for permitting and there have been no changes to the original approval. As commission members recalled the project fondly, without further presentation, the following motion was made.

MOTION BY MR. KARAKUL FOR APPROVAL OF THE TIME EXTENSION.

MOTION SECONDED BY MRS. VANNECK.

MOTION CARRIED UNANIMOUSLY.

C. **MINOR PROJECTS - OLD BUSINESS:** None

D. **MINOR PROJECTS - NEW BUSINESS** (12:05:24 a.m.)

A - 004 - 2011 Revisions to previous approval

Address: 656 North County Road

Architect: Ferguson & Shamamian Architects, LLP

Project Description: Revisions to approved renovations and alterations of the existing 2 story single family residence, 1 story Pool House, and new 1 story Guest House. Main House design revisions include preserving the west facade and adjacent exterior staircase, removing an appendage on the north facade, and retaining a majority of the East Loggia. Pool House revisions include omitting a proposed window. Guest House revisions include altering the doors and windows on the South facade. Reductions to the amount of landscape and hardscape are also proposed (these designs are final).

Call for disclosure of ex parte communication: Several members made ex parte declarations

Scott with Ferguson & Shamamian Architects reviewed the proposed revisions to the approved renovations and alterations as listed above. In an effort to save time, Mr. Smith advised that there is no need to discuss or approve items which maintain the existing condition. It is only those items which are proposed for change that need to be discussed and approved. Most of the changes were viewed as minor.

MOTION BY MR. KARAKUL FOR APPROVAL AS PRESENTED.

MOTION SECONDED BY MRS. VANNECK.

MOTION CARRIED UNANIMOUSLY.

A - 003 - 2011 Addition

Address: 152 Reef Road

Applicant: Mr. and Mrs. Matthew Fifield

Architect: Glen P. Harris, AIA

Project Description: Proposed two story addition to the southwest corner of an existing two story residence. The new addition will match existing colors and materials of the existing residence.

Call for disclosure of ex parte communication: Messrs. Homes and Griswold made ex parte declarations.

Architect Glen Harris presented this request for this two story addition in the rear of the property, of which only 18 inches will be visible from Reef Road. Mr. Lindgren stated that the proposal meets code.

MOTION BY MR. KARAKUL FOR APPROVAL AS PRESENTED WITH THE PROVISIO THAT ALL DETAILS MATCH THE EXISTING.

MOTION SECONDED BY MR. VILA.

MOTION CARRIED UNANIMOUSLY.

A - 005 - 2011 Entry columns and wall

Address: 112 Via Palma

Applicant: Mr. and Mrs. Abe Haruvi

Architect: SKA Architect & Planner, Patrick W. Segraves A.I.A.

Project Description: Addition of four 2 ft. x 2 ft. x 8 ft. entry columns and site wall

Call for disclosure of ex parte communication: Mr. Griswold made an ex parte declaration.

Architect Pat Segraves presented this request for a 4 ft. wall with four matching columns at the front of the house. After review of the plans, Mr. Zukov stated that he would prefer no lights on the front of the columns. Well lights, to light the columns from below, were suggested instead.

**MOTION BY MR. ZUKOV FOR APPROVAL OF THE PROJECT AS PRESENTED,
WITH NO LIGHTS DIRECTLY ON THE COLUMNS, BUT ALLOWING WELL
LIGHTS TO ILLUMINATE THE COLUMNS.**

MOTION SECONDED BY MR. VILA.

MOTION CARRIED UNANIMOUSLY.

IX. COMMUNICATIONS FROM CITIZENS (3 MINUTE LIMIT PLEASE) (12:19:00 a.m.) None

**X. COMMENTS OF THE ARCHITECTURAL COMMISSION AND DIRECTOR OF PLANNING,
ZONING AND BUILDING DEPARTMENT: (12:19:04 a.m.)**

Mr. Knowles inquired about the resolution of the matter of the excessive number of expansion joints shown on the Publix plans at the last meeting. Mr. Smith reported a significant reduction in the number of expansion joints on all elevations, but less of a reduction on the south façade where there is some frame construction. After review, Mr. Smith accepted the Publix revised plans, but strongly recommended that the entire structure be constructed in masonry for safety, especially during hurricanes.

Mr. Ives stressed the importance of complete applications.

XI. ADJOURNMENT:

MOTION BY MR. KARAKUL TO ADJOURN THE MEETING AT 12:23 P.M.

MOTION SECONDED BY MRS. VANNECK.

MOTION CARRIED UNANIMOUSLY.

The next meeting of the Architectural Commission will be held on May 25, 2011 at 9:00 a.m. in the Town Council Chambers, 2nd floor, Town Hall, 360 South County Road, Palm Beach.

Respectfully submitted,

Jeffery W. Smith, Chairman
ARCHITECTURAL COMMISSION

cmd

TOWN OF PALM BEACH

Town Council Meeting on: May 10, 2011

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 38-11 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Purchase of Five (5) Vehicles in the Total Amount of \$135,610 as Previously Considered and Approved by the Town Council During the FY2011 Budget Process and Included in the Town's Equipment Replacement Program.

Presenter

Kirk W. Blouin, Chief of Police and Acting Chief of Fire-Rescue

Supporting Documents

- Memorandum dated April 27, 2011, from Kirk W. Blouin
- Resolution No. 38-11

TOWN OF PALM BEACH

Information for Town Council Meeting on: May 10, 2011

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: Kirk W. Blouin, Chief of Police

Re: Purchase Police Vehicles
Resolution No. 38-11

Date: April 27, 2011

STAFF RECOMMENDATION

Staff recommends that the Mayor and Town Council approve the purchase of five (5) police vehicles (including one (1) mechanics truck) as previously considered and approved by the Town Council during the FY11 budget process and as described more explicitly below.

GENERAL INFORMATION

The Police Department anticipated purchasing (4) Ford Crown Victoria patrol vehicles as part of the FY11 equipment replacement program. However, at this time, after a thorough review of the entire fleet, it has been determined that three (3) patrol vehicles and one (1) detective vehicle should be replaced during FY11. The Ford Crown Victoria vehicles are no longer available and are being replaced with the Chevrolet Caprice. The three (3) patrol vehicles being replaced are part of the remaining vehicles on the three (3) year replacement plan and are fully depreciated. It is necessary and prudent to replace these vehicles in FY11 in order to convert the entire patrol fleet to a four (4) year replacement plan as discussed during the FY11 budget process.

The detective vehicle will be a Chevrolet Malibu and replaces a 2003 Crown Victoria detective vehicle that is also fully depreciated. A Chevrolet Silverado Pickup will be purchased to replace the 2002 Ford F-250 which is fully depreciated and not capable of meeting the towing demands of the Police Department.

The approval and purchase of the three (3) patrol vehicles is time sensitive as the deadline for ordering is May 14, 2011.

The approval and purchase of the one (1) detective vehicle is time sensitive as the deadline has passed. We have been advised that G.M. intends to honor the 2011 price for this model only, for the 2012 vehicles, which can be ordered in June 2011.

The approval and purchase of the one (1) mechanics truck, Chevrolet Silverado, is time sensitive as the deadline for ordering is May 12, 2011.

FUNDING/FISCAL IMPACT

In the Equipment Replacement Fund during the FY 2011 budget process \$141,800 was allocated for the purchase of police vehicles.

All vehicles will be purchased through the Florida Sheriff's Association State Bid Award Announcement (10-17-0907) and Purchasing Division guidelines. The total purchase prices for each vehicle is as follows: three (3) patrol vehicles - \$89,739 (\$29,913 each); one (1) detective vehicle - \$21,149; and one (1) truck - \$24,722. This request is for five (5) vehicles at a total cost of \$135,610.

PURCHASING REVIEW

This procurement has been reviewed and approved by the Purchasing Division of the Finance Department and award is hereby recommended to Garber Chevrolet for the Caprice, Bartow Chevrolet Inc. for the Malibu and Alan Jay Chevrolet for the Silverado Truck based on the Florida Sheriff's Association Bid Award Announcement (10-18-0907).

TOWN ATTORNEY REVIEW

Resolution No.38-11 has been approved by the Town Attorney for legal form and sufficiency. approval.

KWB:rh

Attachments

cc: Jane Struder, Finance Director
Lynda Venne, Director of Purchasing

RESOLUTION NO. 38 -11

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF
PALM BEACH, PALM BEACH COUNTY, FLORIDA,
AUTHORIZING THE PURCHASE OF FIVE (5) VEHICLES IN
THE TOTAL AMOUNT OF \$135,610 AS PREVIOUSLY
CONSIDERED AND APPROVED BY THE TOWN COUNCIL
DURING THE FY2011 BUDGET PROCESS AND INCLUDED IN
THE TOWN'S EQUIPMENT REPLACEMENT PROGRAM.**

**BE IT RESOLVED BY TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM
BEACH COUNTY, FLORIDA, as follows:**

That the Palm Beach Police Department is hereby authorized and directed to purchase five (5) vehicles via the Florida Sheriff's Association Bid Award Announcement (10-18-0907) in the amount of \$135,610.

A copy of the FSA price per vehicle and the dealership is attached hereto as *Exhibit A* and is hereby incorporated within this Resolution and made a part hereof.

**PASSED AND ADOPTED IN A REGULAR, ADJOURNED SESSION OF THE TOWN
COUNCIL OF THE TOWN OF PALM BEACH THIS 10TH DAY OF MAY, 2011.**

Gail L. Coniglio, Mayor

David A. Rosow, Town Council President

Robert N. Wildrick, Council President Pro Tem

William J. Diamond, Town Council Member

ATTEST:

Richard M. Kleid, Town Council Member

Susan A. Owens, Town Clerk

Michael J. Pucillo, Town Council Member

Exhibit A

Award purchase based on FSA contract as follows:

- Garber Chevrolet, 2011 Chevrolet Caprice, \$89,739 (3 @ \$29,913 each)
- Bartow Chevrolet Inc., 2012 Malibu, \$21,149
- Alan Jay Chevrolet, 2011 Silverado truck, \$24,722

Per the Florida Sheriff's Association Bid Award Announcement (10-18-0907).

TOWN OF PALM BEACH

Town Council Meeting on: May 10, 2011

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 48-11 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding Contracts for \$32,799 to Community Asphalt Corporation, and for \$184,823 to Florida Highway Products, Inc., for the Annual Roadway Paving and Resurfacing, Establishing a Total Budget of \$261,108 for Said Improvements, and Authorizing the Town Manager to Take Actions Necessary to Complete Said Improvements.

Presenter

H. Paul Brazil, Director of Public Works

Supporting Documents

- Memorandum dated April 29, 2011, from H. Paul Brazil, Director of Public Works.
- Resolution No. 48-11

TOWN OF PALM BEACH

Information for Town Council Meeting on: May 10, 2011

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: H. Paul Brazil, Director of Public Works

Re: Award of Annual Road Paving and Resurfacing Contracts for Summer 2011 Work
Resolution No. 48-11

Date: April 29, 2011

STAFF RECOMMENDATION

Town staff recommends that Town Council approve Resolution No. 48-11 authorizing the award of the 2011 road paving and resurfacing contracts to Community Asphalt Corporation for the milling and resurfacing of Town streets, in the amount of \$32,799 per the Palm Beach County Contract #R2010-1216 and to Florida Highway Products Inc. for the micro-surfacing of Town streets in the amount of \$184,823 per the Palm Beach County Contract #R2009-1839. A total budget for these contracts of \$261,108 is authorized, including contingency.

GENERAL INFORMATION

The approved FY 2011 Capital Improvement Program budget adopted by Town Council included \$250,000 for roadway resurfacing. A balance of approximately \$11,108 also remains from prior year funds. The proposed summer 2011 work is consistent with the approved 5-year paving plan and the funding available. The proposed paving work consists of:

- Milling and resurfacing to occur on Chilean Avenue from South County Road to Cocoanut Row, and on Ibis Way between South Ocean Boulevard and Ibis Isle Road (East).
- Micro-surfacing will be done on Barton Avenue from South Ocean Boulevard to South County Road, and Flagler Drive from Barton Avenue to Via Bethesda, and Primavera Avenue (west of Cocoanut Row), and Clarke Avenue from South Ocean Boulevard to South County Road, and Seabreeze Avenue (100 block and 400 block only), and Seaspray Avenue (100 block and 400 block only), and Phipps Plaza, and Four Arts Plaza, and Gulfstream Road, and Middle Road.

The proposed paving work would commence after June 1, 2011, and is planned to be completed before August 31, 2011. Upon completion of this phase of work, approximately 80% of the streets in town will have been resurfaced since 2005.

A contingency of \$43,486 is also provided to account for unforeseen conditions and necessary related work activities. Adjustment of water valve boxes, manholes, and other utility features will occur and typically \$10-15K is allocated for this work. Similarly, any pavement marking/stripping of the roadways occurs after the resurfacing is done, and is accomplished by a separate vendor. The contingency also accounts for material price adjustments (increases in liquid asphalt costs) and small variations in actual quantities of asphalt placed versus the estimated quantities. Lastly, any paving program changes (e.g. to resurface an additional block or two of streets) can be accommodated within the project contingency. Any funds remaining will be carried forward in the capital project account as has been done in past years.

Town staff recommends that the paving work be accomplished via “piggy-back” contracts that are currently in place by other government entities (Palm Beach County). These contractors have successfully completed Town paving projects in Palm Beach in prior years.

FUNDING/FISCAL IMPACT

Including prior year carry-over funds, there is currently \$261,108 available in the FY 2011 CIP budget adopted by Town Council for this roadway resurfacing work.

PURCHASING REVIEW

This item has been reviewed by the Purchasing Division and approved as recommended.

TOWN ATTORNEY REVIEW

This item has been reviewed and approved by the Town Attorney as to form and legal sufficiency.

Attachment

HPB:nb

cc: Jane Struder, Director of Finance
Cheryl Somers, Assistant Director of Finance
Eric B. Brown, P.E., Assistant Director of Public Works
Ed Armstrong, Parks/Streets Supervisor
Lynda Venne, Purchasing Agent

RESOLUTION NO. 48-11

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AWARDING CONTRACTS FOR \$32,799 TO COMMUNITY ASPHALT CORPORATION, AND FOR \$184,823 TO FLORIDA HIGHWAY PRODUCTS INC. FOR THE ANNUAL ROADWAY PAVING AND RESURFACING, ESTABLISHING A TOTAL BUDGET OF \$261,108 FOR SAID IMPROVEMENTS, AND AUTHORIZING THE TOWN MANAGER TO TAKE ACTIONS NECESSARY TO COMPLETE SAID IMPROVEMENTS.

* * * * *

BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, as follows:

Section 1. The Town of Palm Beach approved the Capital Paving Program during its budget process for multi-year paving and resurfacing;

Section 2. Community Asphalt Corporation has an existing contract with Palm Beach County (Contract #R2010-1216); and a contract in the amount of \$32,799 is awarded, and Florida Highway Products Inc. has an existing contract with Palm Beach County (Contract #R2009-1839); and a contract in the amount of \$184,823 is awarded, and a project contingency of \$43,486 is provided to establish an overall project budget of \$261,108 for said work, and

Section 3. The Town Manager, or his designee, is hereby authorized and directed to execute purchase orders on behalf of the Town of Palm Beach for the roadway paving and resurfacing to Community Asphalt Corporation and Florida Highway Products Inc.; and

Section 4. The Town Manager, or his designee, is hereby authorized and directed to take such further actions as may be necessary to effectuate the completion of this paving work.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 10th day of May 2011.

Gail L. Coniglio, Mayor

David A. Rosow, Town Council President

Robert N. Wildrick, President Pro Tem

William J. Diamond, Town Council Member

ATTEST:

Richard M. Kleid, Town Council Member

Susan A. Owens, Town Clerk

Michael J. Pucillo, Town Council Member

TOWN OF PALM BEACH

Town Council Meeting on: May 10, 2011

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 51-11 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Contract to Foster Marine Construction, Inc., in the Amount of \$1,292,960 and Establishing a Construction Phase Budget of \$1,422,256 for Installation of Utility Improvements and Roadway Restoration on North Lake Way and Tangier Avenue.

Presenter

H. Paul Brazil, Director of Public Works

Supporting Documents

- Memorandum dated May 2, 2011, from H. Paul Brazil, Director of Public Works.
- Resoution No. 51-11
- Bid Tab Sheets

TOWN OF PALM BEACH

Information for Town Council Meeting on: May 10, 2011

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: H. Paul Brazil, P.E., Director of Public Works

Re: Award for Construction of Utility Improvements on North Lake Way and Tangier Avenue
Resolution No. 51-11

Date: May 2, 2011

STAFF RECOMMENDATION

Town staff recommends that Town Council approve Resolution No. 51-11 authorizing the Town Manager to enter into an agreement for construction services with Foster Marine Contractors, Inc. in the amount of \$1,292,960 for installation of utilities and roadway improvements on North Lake Way and Tangier Avenue and establishing a construction phase budget of \$1,422,256.

GENERAL INFORMATION

Tangier Avenue plans were designed to make improvements to the water main, sanitary sewer, drainage lines, and roadway. The North Lake Way plans were designed to add additional drainage on N. Lake Way from south of North Woods Road to El Dorado Lane. To minimize construction duration and costs, staff merged the two projects together. The projects were designed by the same consultant and are located in close proximity to each other. This project is part of the Accelerated Capital Improvement Program and is scheduled to be completed this year.

FUNDING/FISCAL IMPACT

Funding for this project is fully contained within the Accelerated Capital Improvement Program.

PURCHASING REVIEW

This item has been reviewed by the Purchasing Division and recommend award to the lowest responsive and responsible bidder - Foster Marine Contractors, Inc., in the amount of \$1,292,960.00.

TOWN ATTORNEY REVIEW

The Town Attorney has reviewed this resolution and approved for legal form and sufficiency.

Attachments

cc: Thomas G. Bradford, Deputy Town Manager
Jane Struder, Finance Director
James Bowser, Town Engineer
Charles Langley, Senior Project Engineer
Douglas Terry, Water Resources Division Manager
Jeffrey Sanon, Project Engineer

RESOLUTION NO. 51-11

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AWARDING A CONTRACT TO FOSTER MARINE CONSTRUCTION, INC., IN THE AMOUNT OF \$1,292,960 AND ESTABLISHING A CONSTRUCTION PHASE BUDGET OF \$1,422,256 FOR INSTALLATION OF UTILITY IMPROVEMENTS AND ROADWAY RESTORATION ON NORTH LAKE WAY AND TANGIER AVENUE.

* * * * *

BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, as follows:

Section 1. The construction contract is hereby awarded to Foster Marine Construction, Inc. for the amount of \$1,292,960 and a construction phase budget of \$1,422,256 is hereby established for this project.

Section 2. The Town Manager is hereby authorized and directed to execute a contract on behalf of the Town of Palm Beach for installation of utility improvements and roadway restoration on North Lake Way and Tangier Avenue.

Section 3. The Town Manager, or his designee, is hereby authorized and directed to take such further actions as may be necessary to effectuate the implementation of these construction phase services in conjunction with the Accelerated Capital Improvement Program.

PASSED AND ADOPTED in a regular adjourned session of Town Council of the Town of Palm Beach this 10th day of May 2011.

Gail L. Coniglio, Mayor

David A. Rosow, Town Council President

Robert N. Wildrick, Council President Pro Tem

William J. Diamond, Town Council Member

ATTEST:

Richard M. Kleid, Town Council Member

Susan A. Owens, Town Clerk

Michael J. Pucillo, Town Council Member

North Lake Way and Tangier Avenue - Utility Improvements

Bid No. 2011-17

Contractor	D. S. Eakins Construction Corporation	Foster Marine Contractors, Inc.	Johnson-Davis, Inc.	Murray Logan Construction, Inc.	The Whiting-Turner Contracting Company 1901 W. Cypress Creek Road, Suite 101
Address:	1481 Kinetic Road	7313 Westport Place	604 Hillbrath Drive	313 65th Trail N.	
Telephone:	Lake Park, FL 33403	West Palm Beach, FL 33413	Lantana, FL 33462	West Palm Beach, FL	Ft. Lauderdale, FL 33309
Fax:	561-842-0001	561-683-0034	561-588-1170	561-686-3948	954-776-0800
Contact:	561-842-0009	561-683-0335	561-585-5252	561-686-7465	954-776-0797
	Douglas S. Eakins	Larry Brennen	Ed Pultz	David Logan	Frank Zaremba

Tangier Avenue Improvements

General Conditions

	ITEM	QTY	UNIT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT
1	Mobilization	1	L.S.	\$1,000.00	\$1,000.00	\$7,000.00	\$7,000.00	\$7,000.00	\$7,000.00	\$24,000.00	\$24,000.00	\$5,000.00	\$5,000.00
2	Maintenance of Traffic (including Pedestrian M.O.T.)	1	L.S.	\$7,000.00	\$7,000.00	\$6,900.00	\$6,900.00	\$5,000.00	\$5,000.00	\$20,000.00	\$20,000.00	\$10,545.00	\$10,545.00
3	Record Drawings	1	L.S.	\$11,300.00	\$11,300.00	\$6,400.00	\$6,400.00	\$7,400.00	\$7,400.00	\$15,000.00	\$15,000.00	\$18,315.00	\$18,315.00
4	Indemnification and Performance Bond	1	L.S.	\$10,000.00	\$10,000.00	\$5,400.00	\$5,400.00	\$8,000.00	\$8,000.00	\$12,000.00	\$12,000.00	\$12,210.00	\$12,210.00
					\$29,300.00		\$25,700.00		\$27,400.00		\$71,000.00		\$46,070.00

Demolition

	ITEM	QTY	UNIT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT
5	Clearing and Grubbing	1	L.S.	\$28,000.00	\$28,000.00	\$4,500.00	\$4,500.00	\$10,000.00	\$10,000.00	\$8,000.00	\$8,000.00	\$3,885.00	\$3,885.00
6	Remove Existing Header Curb	2,188	LF	\$5.00	\$10,940.00	\$7.00	\$15,316.00	\$2.00	\$4,376.00	\$4.00	\$8,752.00	\$6.66	\$14,572.08
7	Remove Existing Asphalt Pavement (Roadway)	3,250	SY	\$4.00	\$13,000.00	\$6.00	\$19,500.00	\$2.00	\$6,500.00	\$4.00	\$13,000.00	\$5.55	\$18,037.50
					\$51,940.00		\$39,316.00		\$20,876.00		\$29,752.00		\$36,494.58

Roadway Items

	ITEM	QTY	UNIT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT
8	10" Limerock Base	3,250	SY	\$18.00	\$58,500.00	\$14.00	\$45,500.00	\$15.00	\$48,750.00	\$33.35	\$108,387.50	\$17.76	\$57,720.00
9	Compacted Base Course Primed	3,250	SY	\$5.00	\$16,250.00	\$2.50	\$8,125.00	\$1.50	\$4,875.00	\$0.85	\$2,762.50	\$2.50	\$8,125.00
10	Type S Asphaltic Concrete 2" Thick (Roadway)	3,250	SY	\$17.00	\$55,250.00	\$14.50	\$47,125.00	\$12.00	\$39,000.00	\$14.55	\$47,287.50	\$17.76	\$57,720.00
11	F.D.O.T. 24" Valley Gutter	2,188	LF	\$26.00	\$56,888.00	\$19.00	\$41,572.00	\$12.00	\$26,256.00	\$16.00	\$35,008.00	\$19.98	\$43,716.24
12	F.D.O.T. Type "D" Curb Existing Driveway Adjustment & Restoration	192	LF	\$25.00	\$4,800.00	\$22.00	\$4,224.00	\$11.00	\$2,112.00	\$15.70	\$3,014.40	\$16.65	\$3,196.80
13		1	L.S.	\$22,275.00	\$22,275.00	\$17,000.00	\$17,000.00	\$25,000.00	\$25,000.00	\$28,000.00	\$28,000.00	\$49,950.00	\$49,950.00
14	Sodding & Landscape Replacement	1	L.S.	\$5,000.00	\$5,000.00	\$8,600.00	\$8,600.00	\$20,000.00	\$20,000.00	\$20,000.00	\$20,000.00	\$8,325.00	\$8,325.00
15	Tactile Warning Strip	2	EA	\$500.00	\$1,000.00	\$600.00	\$1,200.00	\$350.00	\$700.00	\$300.00	\$600.00	\$388.50	\$777.00
					\$219,963.00		\$173,346.00		\$166,693.00		\$245,059.90		\$229,530.04

Storm Water

	ITEM	QTY	UNIT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT
16	Catch Basin Type "C"	8	EA	\$2,800.00	\$22,400.00	\$1,900.00	\$15,200.00	\$3,000.00	\$24,000.00	\$2,200.00	\$17,600.00	\$3,108.00	\$24,864.00
17	Existing Structures: Replace Frame, Grate or Lid	9	EA	\$1,025.00	\$9,225.00	\$800.00	\$7,200.00	\$900.00	\$8,100.00	\$1,400.00	\$12,600.00	\$721.50	\$6,493.50
18	30" PVC (A2000)	11	LF	\$163.00	\$1,793.00	\$130.00	\$1,430.00	\$100.00	\$1,100.00	\$140.00	\$1,540.00	\$166.50	\$1,831.50
19	24" PVC (A2000)	160	LF	\$100.00	\$16,000.00	\$94.00	\$15,040.00	\$75.00	\$12,000.00	\$85.00	\$13,600.00	\$73.26	\$11,721.60
20	18" PVC (A2000)	49	LF	\$92.00	\$4,508.00	\$80.00	\$3,920.00	\$70.00	\$3,430.00	\$76.00	\$3,724.00	\$64.38	\$3,154.62
21	15" PVC (A2000)	275	LF	\$84.00	\$23,100.00	\$36.00	\$9,900.00	\$60.00	\$16,500.00	\$64.00	\$17,600.00	\$44.40	\$12,210.00
22	Drainage Manhole (MH)	1	EA	\$2,750.00	\$2,750.00	\$2,400.00	\$2,400.00	\$4,500.00	\$4,500.00	\$3,000.00	\$3,000.00	\$3,552.00	\$3,552.00
23	Drainage Manhole (Conflict Structure)	2	EA	\$7,050.00	\$14,100.00	\$5,300.00	\$10,600.00	\$6,000.00	\$12,000.00	\$6,000.00	\$12,000.00	\$6,993.00	\$13,986.00
24	Remove Existing Manhole	4	EA	\$1,000.00	\$4,000.00	\$700.00	\$2,800.00	\$2,000.00	\$8,000.00	\$500.00	\$2,000.00	\$832.50	\$3,330.00
25	Adjust Manhole Lids	3	EA	\$600.00	\$1,800.00	\$500.00	\$1,500.00	\$400.00	\$1,200.00	\$800.00	\$2,400.00	\$388.50	\$1,165.50
26	Desilting Existing 30" RCP	880	LF	\$4.00	\$3,520.00	\$8.00	\$7,040.00	\$4.00	\$3,520.00	\$18.00	\$15,840.00	\$3.61	\$3,176.80
					\$103,196.00		\$77,030.00		\$94,350.00		\$101,904.00		\$85,485.52

North Lake Way and Tangier Avenue - Utility Improvements

Bid No. 2011-17

		Contractor		D. S. Eakins Construction Corporation		Foster Marine Contractors, Inc.		Johnson-Davis, Inc.		Murray Logan Construction, Inc.		The Whiting-Turner Contracting Company	
11	F.D.O.T. 18" Valley Gutter	2,864	LF	\$25.00	\$71,600.00	\$20.00	\$57,280.00	\$12.00	\$34,368.00	\$14.80	\$42,387.20	\$18.87	\$54,043.68
12	F.D.O.T. Type "D" Curb	461	LF	\$25.00	\$11,525.00	\$22.00	\$10,142.00	\$11.00	\$5,071.00	\$15.70	\$7,237.70	\$16.65	\$7,675.65
13	Existing Driveway Adjustment & Restoration	1	L.S.	\$22,150.00	\$22,150.00	\$14,000.00	\$14,000.00	\$25,000.00	\$25,000.00	\$24,000.00	\$24,000.00	\$16,650.00	\$16,650.00
14	Sodding & Landscape Replacement	1	L.S.	\$10,000.00	\$10,000.00	\$13,000.00	\$13,000.00	\$50,000.00	\$50,000.00	\$20,000.00	\$20,000.00	\$11,100.00	\$11,100.00
					\$324,949.00		\$265,741.00		\$283,201.00		\$349,324.90		\$299,501.31

Water Service

ITEM	QTY	UNIT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT
15 Install New Valve Boxes	10	EA	\$600.00	\$6,000.00	\$500.00	\$5,000.00	\$600.00	\$6,000	\$575.00	\$5,750.00	\$333.00	\$3,330.00
16 Water Main Conflict Adjustment	4	EA	\$5,000.00	\$20,000.00	\$6,300.00	\$25,200.00	\$7,000.00	\$28,000	\$4,700.00	\$18,800.00	\$5,550.00	\$22,200.00
				\$26,000.00		\$30,200.00		\$34,000		\$24,550.00		\$25,530.00

Storm Water

ITEM	QTY	UNIT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT
17 Catch Basin Type "C"	29	EA	\$2,800.00	\$81,200.00	\$2,000.00	\$58,000.00	\$2,500.00	\$72,500.00	\$2,200.00	\$63,800.00	\$2,886.00	\$83,694.00
18 24" PVC (A2000)	1,190	LF	\$106.00	\$126,140.00	\$82.00	\$97,580.00	\$75.00	\$89,250.00	\$78.00	\$92,820.00	\$66.60	\$79,254.00
19 21" PVC (A2000)	553	LF	\$61.00	\$33,733.00	\$71.00	\$39,263.00	\$70.00	\$38,710.00	\$77.00	\$42,581.00	\$64.38	\$35,602.14
20 18" PVC (A2000)	721	LF	\$57.00	\$41,097.00	\$63.00	\$45,423.00	\$55.00	\$39,655.00	\$66.00	\$47,586.00	\$61.05	\$44,017.05
21 15" PVC (A2000)	522	LF	\$49.00	\$25,578.00	\$50.00	\$26,100.00	\$50.00	\$26,100.00	\$56.00	\$29,232.00	\$44.40	\$23,176.80
22 6" PVC (A2000)	15	LF	\$43.00	\$645.00	\$48.00	\$720.00	\$40.00	\$600.00	\$100.00	\$1,500.00	\$22.20	\$333.00
23 Drainage Manhole (MH)	14	EA	\$2,850.00	\$39,900.00	\$2,300.00	\$32,200.00	\$5,000.00	\$70,000.00	\$3,300.00	\$46,200.00	\$3,108.00	\$43,512.00
24 Drainage Manhole (Conflict Structure)	1	EA	\$6,550.00	\$6,550.00	\$5,000.00	\$5,000.00	\$7,500.00	\$7,500.00	\$6,000.00	\$6,000.00	\$7,215.00	\$7,215.00
25 Connect to Existing Drainage Structure	1	L.S.	\$12,000.00	\$12,000.00	\$1,900.00	\$1,900.00	\$15,000.00	\$15,000.00	\$9,000.00	\$9,000.00	\$2,220.00	\$2,220.00
				\$366,843.00		\$306,186.00		\$359,315.00		\$338,719.00		\$319,023.99

Sanitary Service

ITEM	QTY	UNIT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT
26 Sanitary Sewer Manhole	2	EA	\$3,850.00	\$7,700.00	\$6,400.00	\$12,800.00	\$5,000.00	\$10,000.00	\$4,200.00	\$8,400.00	\$3,885.00	\$7,770.00
27 6" Gravity Sewer PVC SRD 26	65	LF	\$40.00	\$2,600.00	\$72.00	\$4,680.00	\$100.00	\$6,500.00	\$80.00	\$5,200.00	\$27.75	\$1,803.75
28 8" Gravity Sewer PVC SDR 26	80	LF	\$54.00	\$4,320.00	\$84.00	\$6,720.00	\$100.00	\$8,000.00	\$50.00	\$4,000.00	\$55.50	\$4,440.00
29 10" Gravity Sewer PVC SDR 26	20	LF	\$86.00	\$1,720.00	\$89.00	\$1,780.00	\$100.00	\$2,000.00	\$60.00	\$1,200.00	\$66.60	\$1,332.00
30 12" Gravity Sewer PVC SDR 26	10	LF	\$142.00	\$1,420.00	\$83.00	\$830.00	\$100.00	\$1,000.00	\$70.00	\$700.00	\$83.25	\$832.50
31 Adjust Manhole Lids (As Needed)	1	L.S.	\$5,050.00	\$5,050.00	\$180.00	\$180.00	\$7,500.00	\$7,500.00	\$9,600.00	\$9,600.00	\$388.50	\$388.50
32 Connect to Existing Sanitary Manholes	1	L.S.	\$2,055.00	\$2,055.00	\$3,600.00	\$3,600.00	\$4,000.00	\$4,000.00	\$6,000.00	\$6,000.00	\$1,942.50	\$1,942.50
				\$24,865.00		\$30,590.00		\$39,000.00		\$35,100.00		\$18,509.25
				\$844,318.00		\$713,068.00		\$876,787.00		\$873,673.90		\$778,404.71

NORTH LAKE WAY IMPROVEMENTS Totals

ADD-ALTERNATE BID ITEMS

ITEM	QTY	UNIT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT
A1 30" PVC (A2000) Station 51+82 to Station 54+75	293	LF	\$250.00	\$73,250.00	\$135.00	\$39,555.00	\$250.00	\$73,250.00	\$85.00	\$24,905.00	\$0.00	\$0
A2 Replace Asphalt (2-1/2") with Base (10") with Standard Trench Repair (Assume 8'Width) Station 51+82 to Station 54+50	1	L.S.	\$11,000.00	\$11,000.00	\$14,000.00	\$14,000.00	\$20,000.00	\$20,000.00	\$6,600.00	\$6,600.00	\$0.00	\$0

North Lake Way and Tangier Avenue - Utility Improvements

Bid No. 2011-17

Contractor		D. S. Eakins Construction Corporation	Foster Marine Contractors, Inc.	Johnson-Davis, Inc.		Murray Logan Construction, Inc.		The Whiting-Turner Contracting Company	
Replace Asphalt (1-1/2" with Base (10") with Standard Trench Repair (Assume 8' Patch) Then Mill (1") & Resurface entire A3 SB Lane with Type S-3 (1") Station 51+82 to Station 54+50 including Pavement Markings	1 L.S.	\$20,000.00	\$17,000.00	\$30,000.00	\$30,000.00	\$11,000.00	\$11,000.00	\$0.00	\$0

TOTAL BID PRICE (sum of all SUBTOTALS)
Excludes Add-Alternate Bid Items

\$1,509,906.00

\$1,292,960.00

\$1,478,771.00

\$1,590,298.80

\$1,398,584.25

Estimated time to start work upon Notice to Proceed
Estimated time to complete project
(Not to exceed time):

30 days
150 days
21 days
135 days
10 days
150 days
30 days
135/150 days

Opened by:
Witnessed by:

Lynelle Thomas
John Chen

Bid Opening May 2, 2011 @ 2:00 PM

Indicates a discrepancy from the written bid - unit costs prevail

TOWN OF PALM BEACH

Town Council Meeting on: May 10, 2011

Section of Agenda

Consent - Other

Agenda Title

Authorization to Extend Display Time Frame of Centennial Street Signs.

Presenter

Jay Boodheshwar, Director of Recreation

Supporting Documents

- Memorandum Dated, April 29, 2011, from Jay Boodheshwar, Director of Recreation and Special Projects
- Request Dated April 19, 2011, from Patricia Sans, GSCRA

TOWN OF PALM BEACH

Information for Town Council Meeting on: May 10, 2011

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: Jay Boodheshwar, Director of Recreation and Special Projects

Re: Request from the Greater South County Road Association

Date: April 29, 2011

STAFF RECOMMENDATION

Staff recommends that Town Council approve the request from the Greater South County Road Association (GSCRA) to allow the circa 1911 street signs along Royal Poinciana Way and South County Road to continue to be displayed for the rest of this Centennial year.

GENERAL INFORMATION

The Greater South County Road Association had previously requested and received approval from Town Council on October 12, 2010, to place temporary street signs along Royal Poinciana Way and South County Road in honor of the Town's Centennial. At its February 15, 2011, meeting, the Town Council approved an extension of the timeframe for which the signs could be in place until shortly after the actual Centennial of April 17, 2011.

The GSCRA reports there has been an overwhelmingly positive response from the merchants and shoppers to the 1911 street signs. Therefore, the GSCRA requests that the signs be permitted to stay in place until the end of the Centennial year, December 31, 2011.

cc: Paul Brazil, Director of Public Works
Kirk Blouin, Chief of Police and Acting Fire-Rescue Chief
John Page, Director of Planning, Zoning, and Building
Patti Sans, GSCRA President
Centennial Commission File

From: "Sans, Patricia (PALM BEACH, FL)" <patricia_sans@ml.com>
To: Peter Elwell <pelwell@townofpalmbeach.com>
Cc: JBoodheshwar@townofpalmbeach.com, PBrazil@townofpalmbeach.com
Date: 04/19/2011 01:59 PM
Subject: Centennial Street Signs

Peter,

There has been an overwhelmingly positive response from the merchants and shoppers of S County Road and Royal Poinciana to have the 1911 street signs, "Palm Beach Avenue" and "Main Street" remain up as long as possible. With a town so rich in history, it's been great having a small part of that history with us each and every day.

Therefore, I would request that the Town and Town Council grant our request to have the street signs remain up until the end of this Centennial year. Let me know if there are any formal channels or paperwork that would be required.

Thank you in advance for your support always.

Patti Sans, GSCRA

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TOWN OF PALM BEACH

Town Council Meeting on: May 10, 2011

Section of Agenda

Consent - Other

Agenda Title

Authorization to Fill Vacant Records Information Systems Position Due to Retirement.

Presenter

Kirk W. Blouin, Chief of Police and Acting Chief of Fire-Rescue

Supporting Documents

- Memorandum dated April 26, 2011, from Kirk W. Blouin, Chief of Police

TOWN OF PALM BEACH

Information for Town Council Meeting on: May 10, 2011

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: Kirk W. Blouin, Chief of Police

Re: Authorization to Fill Vacant Records Information Systems Position Due to Retirement.

Date: April 26, 2011

STAFF RECOMMENDATION

- Staff recommends the Town Council authorize the Town Manager to hire one (1) Records Assistant I employee to replace a staff member who will be retiring on July 15, 2011.
- Upon approval, we ask that the Human Resources Department initiate the hiring process immediately.
- Staff recommends the Town Council authorize the hiring of the replacement Records Assistant I prior to retirement of the current employee so that there is a sufficient training period and a smooth transition within the Records Information Systems Unit (RIS).

GENERAL INFORMATION

- The RIS Unit is a two person unit (reduced from four) and is **essential** to the operations of the department. The RIS Unit processes every report, citation, arrest, crash, subpoena, code violation, public records request, and much more. They coordinate with Criminal Investigations Unit (CIU) staff in submitting all crime statistics for Uniform Crime Report (UCR) tracking which is required by statute. One of the critical responsibilities of the Records Unit staff is the timely submission of all required records/documentation to the proper agencies including the State Attorney's Office and the Palm Beach County Clerk's Office. The Records Unit manager is the official Custodian of Records for the Police Department and the unit maintains all records in accordance with state and federal records retention law. In addition, they process all mail and maintain all forms used within the department.
- Due to the critical nature of the unit and the position, looking forward to the manager's pending retirement in a few years, staff believes it is imperative that the Records Assistant I position remain a full time position. Savings will be realized due to the replacement person's entry level salary and the new benefits package provided.

Records Assistant I Position

April 26, 2011

Page 2

- While current staff is able to cover absences for short periods of time, it is challenging for one person to do all that is necessary for any extended period of time. If replacement staff is not hired until the current staff member retires, it will be extremely difficult for the manager to perform all the duties of the RIS Unit while providing training to a new employee.

Staff recommends we initiate the hiring process immediately and hire the replacement staff as soon as possible to allow the time necessary for current staff to train a new employee, resulting in a smooth transition.

FUNDING/FISCAL IMPACT

- For purposes of this memo, the annual cost savings compares the current salary to an entry level employee salary (cost of benefits not included):

Senior Records Assistant I :	\$ 46,408
Entry Level Records Assistant I:	\$ 30,283
Savings:	\$ 16,125.

KWB:rfh

TOWN OF PALM BEACH

Town Council Meeting on: May 10, 2011

Section of Agenda

Consent - Other

Agenda Title

Authorization to Fill Vacant Crime Scene Evidence Unit (CSEU) Position Due to Retirement.

Presenter

Kirk W. Blouin, Chief of Police and Acting Chief of Fire-Rescue

Supporting Documents

- Memorandum dated April 29, 2011, from Kirk W. Blouin, Chief of Police

TOWN OF PALM BEACH

Information for Town Council Meeting on: May 10, 2011

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: Kirk W. Blouin, Chief of Police

Re: Authorization to Fill Vacant Crime Scene Evidence Unit Position Due to Retirement.

Date: April 29, 2011

STAFF RECOMMENDATION

- Staff recommends the Town Council authorize the Town Manager to hire two (2) Part-time No Benefits Crime Scene Evidence Technicians to replace the retiring Crime Scene Evidence Unit Technician II.

GENERAL INFORMATION

- The Crime Scene Evident Unit (CSEU) is a two and half person unit (reduced from four) consisting of the CSEU Manager; one Crime Scene Technician II (CST II) and an office assistant whose time is split between the CSEU and the Criminal Investigation Unit.
- The current CST II will reach retirement age in June 2011, after 30 years of employment with the agency. She has verbally stated that she will be retiring shortly after her anniversary date of June 18, 2011. Initiation of the hiring process will be dependent upon receipt of written notice.
- Eliminating the full time CST II position (upon the retirement of the current employee) and replacing it with two part time, no benefits Crime Scene Technician positions was presented in the FY12 Long Term Financial Plan. This plan is advantageous to the operation of the unit and a cost saving to the Town. The recommended changes will reduce the staffing costs, increase the personnel available for response to a larger crime scene, and spread the call-out responsibilities over more personnel.
- Currently, the CSEU Manager and CST II split the on-call responsibilities of CSEU. Even when not being called out, this requires each individual to be able to respond within one (1) hour to any location in Town for 26 weeks of the year. The addition of a third qualified CST, reduces the on-call time to only 18 weeks a year.

Crime Scene Evidence Technician II Position - Page 2

- Part-time employees are authorized to work 30 hours per week, or 60 hours per pay period. In the event of a serious crime scene, both PT employees could be called to the scene along with the CSEU Manager, increasing our ability to fully process large crime scenes in a reasonable amount of time. This would not effect overtime cost as the part time employees would simply work less regular hours during the remainder of the pay period.

FUNDING/FISCAL IMPACT

- For purposes of this memo, the annual cost savings compares the current salary to two (2) part-time entry level employee (benefit cost savings have not been included):

Senior Crime Scene Technician II:	\$ 67,164
(2) Part-time Crime Scene Evidence Technician II:	\$ 43,287
Savings:	\$ 23,877

KWB:ls

TOWN OF PALM BEACH

Town Meeting on: May 10, 2011

Section of Agenda

Consent - Other

Agenda Title

Authorization to Continue Membership and to Pay Dues to the Florida League of Cities.

Presenter

Jane Struder, Director of Finance

Supporting Documents

- Memorandum Dated April 29, 2011, from Jane Struder, Finance Director

TOWN OF PALM BEACH

Information for Town Council Meeting on: May 10, 2011

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: Jane Struder, Finance Director

Re: Authorization to Continue to Pay Membership Dues to the Florida League of Cities in Order to Preserve Receipt of Business Tax Revenue

Date: April 29, 2011

STAFF RECOMMENDATION

Staff recommends that the Town Council authorize a Contingency allocation of \$939 for annual dues to the Florida League of Cities in order to preserve the receipt of business tax revenue collected by the Florida League of Cities.

GENERAL INFORMATION

During the FY11 budget process, the Town Council decided to eliminate all dues in the Legislative program except dues for Palm Beach County League of Cities. This decision included the elimination of dues to the Florida League of Cities (FLC).

The FLC has informed the Town that due to a contractual arrangement they have with the State of Florida, the Town must be a member of the FLC in order to receive business taxes that are collected by the FLC from insurance companies that are domiciled outside the State of Florida and sell policies in the Town. The FLC has been collecting these fees since 1951 at no charge to the Town. Annual disbursements to the Town by the FLC have ranged from \$6,760 to \$15,319 since 2005. Collections to date that would be remitted to the Town if the Town maintains membership with the FLC currently total \$4,350.

Staff is recommending that we maintain our membership with the FLC at a cost of \$939 for FY11 in order to continue receiving the noted business tax disbursements.

FUNDING/FISCAL IMPACT

Annual dues for membership in FY11 to the Florida League of Cities are \$939. Annual revenues from the business tax disbursements will exceed \$5,000.

jls

TOWN OF PALM BEACH

Town Council Meeting on: May 10, 2011

Section of Agenda

Board/Commission Annual Report

Agenda Title

Code Enforcement Board.

[Chairman Timothy Hoffman and Police Chief Kirk Blouin]

Presenter

Kirk W. Blouin, Chief of Police and Acting Chief of Fire-Rescue

Supporting Documents

- Memorandum dated April 29, 2011, from Kirk W. Blouin, Chief of Police
- Code Enforcement Board Cases and Fines Due

TOWN OF PALM BEACH

Information for Town Council Meeting on: May 10, 2011

To: Mayor and Town Council
Via: Peter B. Elwell, Town Manager
From: Kirk W. Blouin, Chief of Police
Re: Annual Report – Code Enforcement Board
Date: April 29, 2011

STAFF RECOMMENDATION

Staff recommends that the Town Council hear the presentation of the Annual Report for 2010 by Timothy Hoffman, Chairman of the Code Enforcement Board.

GENERAL INFORMATION

The following information is a summary of the activities of the Code Enforcement Board for the past year. Timothy Hoffman, the Chairman is prepared to address the Town Council with additional comments regarding the Code Enforcement Board and answer any questions.

The Code Enforcement Board currently has nine (9) members (seven (7) regular members and two (2) alternates). Timothy Hoffman was re-elected as Chairman at the April, 2011 meeting and Harris S. Fried was re-elected as Vice Chairman. The remaining regular members are Joel P. Koepfel, Larry Ochstein, Madelyn Greenberg, Cynthia Van Buren and James M. Ballentine, Jr. The two alternates are W. Anthony Dowell and Scotch Peloso.

From May, 2010 through April, 2011, the Code Enforcement Board heard 131 new code violation cases, 35 fine consideration cases, eight (8) requests for fine reductions and one (1) foreclosure hearing. During this same period of time, the Town of Palm Beach collected \$358,166.74 in fines ordered by the Code Enforcement Board and \$10,800 in Code Enforcement administrative fees. There was an additional \$11,175 in fines collected from individuals who chose to pay code enforcement violation fines in lieu of appearing before the Code Enforcement Board.

As of April, 2011, there are seven (7) properties in daily running fine which total \$883,900 and 39 properties with non-running fines totaling \$841,177.84. Liens in favor of the Town have been filed against all of these property owners. There were three (3) Town properties foreclosed on as a result of Code Enforcement Board action, 215 Colonial Lane, 112 Caribbean Avenue and 110 Angler Avenue. At its February, 2011 meeting, the Code Enforcement Board recommended the Town Council proceed with a foreclosure action on 2283 W. Ibis Isle Road. This foreclosure

had been previously approved by the Town Council at its December 14, 2010 meeting based on the Code Enforcement Board recommendation.

At the present time, the Code Enforcement staff is comprised of one (1) civilian manager who also manages the parking enforcement function of the police department, a parking/code enforcement specialist, one (1) full time lead code enforcement officer and one (1) part time code enforcement officer. The Town is in the process of hiring two additional part time code enforcement officers and interviews were recently conducted with potential candidates. Code enforcement staff handled 1,061 complaints from May 1, 2010 through April, 2011 of which 447 were self-initiated by the code enforcement officers. There were 1,667 inspections completed, 726 code violation warnings and 97 notice of violations issued. Staff also wrote 62 right of way violations for construction parking incidents.

Attached is a list of all properties with current outstanding code enforcement fines.

Attachment

KWB:rh

Code Enforcement Board Costs and Fines as of 4/28/2011

Case #	Name	Address	Date Board Order	Total Due	Comments	Homestead/Foreclosure Status	Date Lien Recorded
06-2042	Robert & Louisa Dean	232 Cherry Lane	10/19/2006	\$150.00	\$150 CEB 10/19/06	Homesteaded/Cannot Foreclose	12/29/2006
07-2073	Robert & Beverly Lowden	129 Chilean Ave.	3/15/2007	\$35,377.84	\$150 CEB Cost 3/15/07;\$250/day start 3/14/07, end 7/31/07; Adv fee \$477.84	Homesteaded/Cannot Foreclose	4/12/2007
07-2089	Erik Gilbertson	151 Chilean Ave.	4/25/2007	\$361,150.00	\$150 CEB 4/25/07;\$250/day start 5/15/07.	Homesteaded/Cannot Foreclose	1/31/2008
07-2185	John Atkinson	250 Clarke Ave.	7/19/2007	\$250.00	\$150 CEB and Water Violation \$100 on 7/19/07	Homesteaded/Cannot Foreclose	4/24/2008
07-2230	Philip Steinberg	1640 S. Ocean Ave.	7/19/2007	\$250.00	\$150 CEB 7/19/07; Water Violation \$100	Homesteaded/Cannot Foreclose	4/24/2008
07-2277	Susan Gibson	226 Pendleton Ave.	9/20/2007	\$43,400.00	\$150 CEB 9/20/07; \$250/day start 9/29/07, end 3/20/08 (sewer)	Homesteaded/Cannot Foreclose	1/31/2008 for \$150 and 8/11/10 for \$250/day
07-2277	Susan Gibson	226 Pendleton Ave.	9/20/2007	\$322,250.00	\$250/day start 10/17/07 (doors and windows)	Homesteaded/Cannot Foreclose	8/11/2010
07-2363	Violet Alexander	259 Oleander Ave.	2/20/2007	\$4,750.00	\$150 CEB 2/20/07p; 3 different violations/CEB fine reduction \$4000 on 2/21/08	Homesteaded/Cannot Foreclose	6/2/2008
07-2385	Philip Steinberg	1640 S. Ocean Ave.	1/17/2008	\$450.00	\$150 CEB and \$300 Water Violation on 1/17/08	Homesteaded/Cannot Foreclose	4/24/2008
07-2398	159 Sunset Ave. LLC	159 Sunset Ave	2/20/2007	\$250.00	\$150 CEB and \$100 Water Violation on 2/20/07	Not Homesteaded; Foreclosure costs exceed balance due	4/24/2008
07-2421	John Atkinson	250 Clarke Ave.	1/17/2008	\$350.00	\$150 CEB and \$200 Water Violation on 1/17/08	Homesteaded/Cannot Foreclose	4/24/2008
08-2478	E. Nordin Gilbertson	151 Chilean Ave.	4/17/2008	\$272,900.00	\$150 CEB 4/17/08; \$250/day start 5/2/08	Homesteaded/Cannot Foreclose	7/31/2008
08-2492	Stephen Macari	110 Angler Ave.	5/15/2008	\$17,150.00	Foreclosed/Town successful bidder fine stopped on 7/10/08; \$10000.00 paid re: 245 Queens Ln.	Now owned by TOPB	7/31/2008
08-2497	C.J.'s Simply Gourmet Inc.	235 Sunrise Ave.C-19	5/15/2008	\$400.00	\$150 CEB and \$250 Fine on 5/17/08	Commercial/Foreclosure costs exceed balance due	7/31/2008

Code Enforcement Board Costs and Fines as of 4/28/2011

Case #	Name	Address	Date Board Order	Total Due	Comments	Homestead/Foreclosure Status	Date Lien Recorded
08-2498	C.J.'s Simply Gourmet Inc.	235 Sunrise Ave. C-19	5/15/2008	\$400.00	\$150 CEB and \$250 Fine on 5/17/08	Commercial/Foreclosure costs exceed balance due	7/31/2008
08-2499	C.J.'s Simply Gourmet Inc.	235 Sunrise Ave. C-19	5/15/2008	\$650.00	\$150 CEB and \$500 Fine on 5/17/08	Commercial/Foreclosure costs exceed balance due	7/31/2008
08-2500	C.J.'s Simply Gourmet Inc.	235 Sunrise Ave. C-19	5/15/2008	\$650.00	\$150 CEB and \$500 fine on 5/17/08	Commercial/Foreclosure costs exceed balance due	7/31/2008
08-2554	Catharine Bradley	40 Cocoanut Row	10/16/2008	\$400.00	\$150 CEB and \$250 fine on 10/16/08	Property Owner not the violator	unable to file
08-2572	Catharine Bradley	Royal Poinciana Plaza	11/20/2008	\$650.00	\$150 CEB and \$500 fine on 11/20/08	Property Owner not the violator	unable to file
08-2583	271 La Puerta Way LLC (New owner Roebling)	271 La Puerta Way	11/20/2008	\$15,900.00	\$75/day start 2/17/09 ends 9/17/09; prop sold/lien to new owner	Not Homesteaded/Property sold subject to Town lien	12/30/08 and 3/4/2009
08-2585	Charles W. Smith	242 Cherry Lane	11/20/2008	\$16,000.00	\$200/day start 12/16/08 ends 3/6/09; in foreclosure with bank	Not Homesteaded; Lender foreclosure action in progress	12/30/2008 and 6/8/2010
08-2593	Precision Green	223 Via Tortuga	12/18/2008	\$150.00	\$150 CEB on 12/18/08; do not hold permit for address	Property Owner not the violator	unable to file
09-2610	T & P Pavers	1485 Via Manana	2/19/2009	\$400.00	\$150 CEB and \$250 fine on 2/19/09; do not hold permit for address	Property Owner not the violator	unable to file
09-2622	Frank Frankel	249 Brazilian Ave.	3/19/2009	\$2,150.00	\$150 CEB on 3/19/09; \$250/day start 4/14/09 end 4/22/09	Not Homesteaded; Foreclosure costs exceed balance due	4/28/2009
09-2652	Lawrences Rule Jr.	2283 W. Ibis Isle Rd.	7/16/2009	\$154,500.00	\$250/day start 8/18/09	Homesteaded/not owner occupied/Town Foreclosure action in process	8/11/2009 and 8/27/09
09-2672	2401 2301 00 Trust	2842 S. Ocean Blvd.	1/23/2010	\$62,150.00	\$250/day; start 1/22/10	Commercial/Foreclosure action by lender in progress	6/2/2010
10-2690	Stephen Macari	110 Angler Ave.	1/21/2010	\$135,650.00	\$150 CEB Town received Cert of Title on 10/20/10	Now owned by TOPB	2/26/2010
10-2691	Joseph Cain	893 S. County Rd.	1/21/2010	\$1,650.00	\$75/day; start 1/27/10, end 2/16/10	Not Homesteaded; Foreclosure costs exceed balance due	2/26/2010

Code Enforcement Board Costs and Fines as of 4/28/2011

Case #	Name	Address	Date Board Order	Total Due	Comments	Homestead/Foreclosure Status	Date Lien Recorded
10-2700	2401 2301 00 Trust	2842 S. Ocean Blvd.	2/20/2010	\$47,400.00	\$250/day; start 2/20/10, end 8/28/20	Not Homesteaded; foreclosure action by lender in progress	6/2/2010
10-2705	332 S. County Rd. LLC	332 S. County Rd.	10/21/2010	\$32,750.00	\$250/day; start 12/18/10	Non-Homesteaded; Commercial property	12/27/2010
10-2706	Susan C. Lee	287 Pendleton Ave.	4/15/2010	\$95,900.00	\$250/day; start 4/10/10	Non-Homesteaded; Owner Occupied	6/2/2010
10-2708	Robert A. & Louisa A. Dean	232 Cherry Lane	4/15/2010	\$900.00	\$75/day; start 4/10/10, end 4/20/10	Homesteaded; Cannot Foreclose	6/2/2010
CE 10-43	Omphoy Ocean Resort & 2401 3201 Trust	2842 S. Ocean Blvd.	4/15/2010	\$150.00	150 CEB	Not Homesteaded; foreclosure action by lender in progress	
CE 10-182	Florida Capital Management	237 Brazilian Ave.	8/19/2010	\$24,750.00	CEB costs paid on 8/2/10; \$250/day; start 8/3/10, ended 3/10/11; reduction by board of \$30,000.00 on 4/21/11	Not Homesteaded; fine reduction hearing 4/21/11	10/13/2010
CE 10-238	Omphoy Ocean Resort & 2401 3201 Trust	2842 S. Ocean Blvd.	7/15/2010	\$150.00	150 CEB	Not Homesteaded; foreclosure action by lender in progress	
CE 10-359	516 So. Ocean Blvd. LLC	516 S. Ocean Blvd.	8/19/2010	\$6,750.00	\$250/day; start 9/11/10, end 10/8/10	Not Homesteaded; notice of foreclosure hearing mailed	10/13/2010
CE 10-418	Gail Trinka	2300 S. Ocean Blvd.	10/21/2010	\$26,150.00	\$250/day; start 9/25/10 end 1/7/11 due to notice to abate	Not Homesteaded; foreclosure action by lender in progress	11/10/2010 and 12/16/10
CE 10-537	Thomas Campaniello	240 S. County Rd.	11/18/2010	\$31,000.00	\$250/day; start 10/30/10 ends 3/3/11	Multi family condo/some units homesteaded	12/16/2010
CE 10-670	County Road Holdings LLC	105 N. County Rd.	3/17/2011	\$4,200.00	CEB costs paid 2/23/11; \$100/day start retroactively on 3/17/11 (out of compliance on 4/19/11)	Not Homesteaded; Commercial Property	to Randolph 4/29/11
CE 10-691	Frank Jensen Family Trust	1176 N. Ocean Blvd. (numeric is 1178 in PAPA)	2/17/2011	\$2,850.00	\$150 CEB paid on 1/20/11; \$150/day start 2/12/11, ends 3/4/11	Not Homesteaded; Foreclosure costs exceed balance due	3/4/2011

Code Enforcement Board Costs and Fines as of 4/28/2011

Case #	Name	Address	Date Board Order	Total Due	Comments	Homestead/Foreclosure Status	Date Lien Recorded
CE 11-105	E. Nordin Gilbertson	151 Chilean Ave.	3/17/2011	\$2,850.00	\$150 CEB on 3/17/11; \$100 day fine start 4/1/11	Homesteaded/Cannot Foreclose	to Randolph 4/25/11
CE 11-154	Aristokids and Pems Partnership	309 S. County Rd.	4/21/2011	\$150.00	\$150 CEB on 4/21/11		
CE 11-200	Charles W. Smith	242 Cherry Lane	4/21/2011	\$150.00	\$150 CEB on 4/21/11	Not Homesteaded; Lender foreclosure action in progress	
CE 11-348	Love II LLC	404 Hibiscus Ave.	4/21/2011	\$150.00	\$150 CEB on 4/21/11		
				\$1,726,627.84			

TOWN OF PALM BEACH

Town Council Meeting on: May 10, 2011

Section of Agenda

Regular Agenda - Old Business

Agenda Title

RESOLUTION NO. 50-11 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., for Design Services in the Amount of \$9,600 and Establishing a Design Budget of \$11,000 for Establishing Parking on South County Road Between Clarke Avenue and Barton Avenue.

Presenter

H. Paul Brazil, Director of Public Works

Supporting Documents

- Memorandum dated April 29 , 2011, from H. Paul Brazil, Director of Public Works..
- Resolution No. 50-11
- Kimley-Horn Letter Agreement dated April 29, 2011.

TOWN OF PALM BEACH

Information for Town Council Meeting on: May10, 2011

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: H. Paul Brazil, P.E., Director of Public Works

Re: FDOT Update on South County Road Parking Near Clarke Avenue
Resolution No. 50-11

Date: April 29, 2011

STAFF RECOMMENDATION

If the Town Council decides to further pursue the possibility of adding on-street parking on South County Road between Seaview Avenue and Barton Avenue, then Town staff recommends adoption of Resolution No. 50-11 authorizing the Town Manager to enter into an agreement with Kimley-Horn and Associates, Inc. (Kimley-Horn) awarding \$9,600 for design services, and establishing a design budget of \$11,000 .

GENERAL INFORMATION

On April 18, 2011, Town staff and Kimley-Horn's traffic engineer met with Florida Department of Transportation (FDOT) officials to discuss the Town's proposed conceptual plan to establish parking on County Road. The discussion addressed extending the parking along the east side of South County Road north from Seaview Avenue to between Clarke Avenue and Barton Avenue. Upon the conclusion of the meeting, it was determined that FDOT has no objections to the project. The project would have to be permitted through both their local office and their District IV office in Ft. Lauderdale for right-of-way, and operation and design reviews, respectively.

If this is an option the Town Council would like to pursue, design work can begin immediately.

FUNDING/FISCAL IMPACT

This is not a planned project and is not funded. Sufficient funds exist in the pay-as-you-go Capital Improvement Program to accomplish the design and permitting. This will also allow us to develop a construction cost estimate. Funding the construction costs will need to be addressed at a future Town Council meeting.

PURCHASING REVIEW

This item has been reviewed by the Purchasing Division and approved as recommended.

TOWN ATTORNEY REVIEW

The Town Attorney has reviewed this resolution and approved for legal form and sufficiency.

Attachments

cc: Thomas G. Bradford, Deputy Town Manager
Jane Struder, Director of Finance
James M. Bowser, P.E., Town Engineer
Jeffrey Sanon, P.E., Project Engineer
Robert Weber, Coastal Coordinator

RESOLUTION NO. 50-11

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., FOR DESIGN SERVICES IN THE AMOUNT OF \$9,600 AND ESTABLISHING A DESIGN BUDGET OF \$11,000 FOR ESTABLISHING PARKING ON SOUTH COUNTY ROAD BETWEEN CLARKE AVENUE AND BARTON AVENUE.

* * * * *

BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, as follows:

Section 1. The Town Manager is hereby authorized and directed to execute a purchase order on behalf of the Town of Palm Beach for design phase services related to installation of parking along the east side of South County Road north from Seaview Avenue to between Clarke Avenue and Barton Avenue.

Section 2. The design contract is hereby awarded to Kimley-Horn and Associates, Inc. for the amount of \$9,600 and a design budget of \$11,000 is hereby established for this project.

Section 3. The Town Manager, or his designee, is hereby authorized and directed to take such further actions as may be necessary to effectuate the implementation of these design services for the Capital Improvement Program.

PASSED AND ADOPTED in a regular adjourned session of Town Council of the Town of Palm Beach this 10th day of May, 2011.

Gail L. Coniglio, Mayor

David A. Rosow, Town Council President

Robert N. Wildrick, Council President Pro Tem

William J. Diamond, Town Council Member

ATTEST:

Richard M. Kleid, Town Council Member

Susan A. Owens, Town Clerk

Michael J. Pucillo, Town Council Member

April 29, 2011

■
Suite 200
1920 Wekiva Way
West Palm Beach, Florida
33411

Mr. Jeff Sanon, P.E.
Town of Palm Beach
951 Old Okeechobee Boulevard, Suite A
West Palm Beach, Florida 33401

Re: Letter Agreement for Roadway Design Services
SR A1A (County Road)
Town of Palm Beach, Florida

Dear Mr. Sanon:

Kimley-Horn and Associates, Inc. ("KHA") is pleased to submit this letter agreement (the "Agreement") to the Town of Palm Beach ("the Client", "Town, or "You") for providing professional engineering services associated with the re-striping of SR A1A (County Road) between Seaspray Avenue and the alley between Barton Avenue and Clarke Avenue to accommodate a single lane of parking. Our project understanding, scope of services, schedule and fee follows.

PROJECT UNDERSTANDING

It is our understanding that the Town desires to re-stripe SR A1A (County Road) to include two southbound lanes, one northbound lane, and a parking lane. We have prepared this proposal to develop a striping and signage plan at the subject location.

SCOPE OF SERVICES

Task 1 – FDOT Coordination

KHA will coordinate with the Florida Department of Transportation (FDOT) Planning Department in seeking their approval of the lane reduction. It is anticipated that the Planning Department will desire to see traffic volumes and a level of service analysis for County Road. KHA will provide this analysis to the Department in a letter report. If additional information is needed, it will be performed as additional services.

Task 2 – Base Mapping

KHA will obtain an aerial photograph from Palm Beach County which will subsequently be used by KHA to develop the base map for the project. Based on our prior meeting with the FDOT, it was deemed that this level of detail was appropriate for this project. KHA will perform a field visit to verify the scale and accuracy of the aerials. KHA will compare the aerial to the conditions observed in the field and note any significant differences that would impact the design.



Task 3 – Signing and Marking Plan Preparation

KHA will develop preliminary Signing and Marking Plans for the project. The preliminary Signing and Marking Plans will indicate the location of existing and proposed striping, reflective pavement markings (RPMs) if any, parking kiosks, and signs. KHA will coordinate with the Town of Palm Beach Public Works Department and FDOT during the development of the preliminary plans. KHA will provide five (5) preliminary plan sets for Town and FDOT comment. KHA will coordinate with Town and FDOT staff to address one round of reasonable comments on the preliminary design and then prepare the Final Signing and Marking Plans.

The plans will be developed in accordance with the latest Town of Palm Beach standards, FDOT standards, and the 2009 Manual on Uniform Traffic Control Devices (MUTCD). The Final Signing and Marking Plans will contain the following sheets:

- (1) Cover Sheet
- (2) General notes and tabulation of quantities
- (3) Signing and Marking Plan, containing proposed striping and signing and existing striping and signing removal details

KHA will provide five plan sets for Town and FDOT comment. KHA will respond to up to one round of comments on the plans.

KHA will prepare an engineer's opinion of probable cost (OPC) for the striping and signage.

KHA will prepare one FDOT General Use Right-of-Way-Permit Application to accompany the permit request. KHA will submit the OPC and plan sets to FDOT.

Task 4 – Meetings

KHA will be available to attend up to three (3) meetings regarding the project at your request.

Additional Services

Any services not specifically provided for in the above scope, as well as any changes in the scope you request, will be considered additional services and will be performed on an hourly basis in accordance with our contract with the Town, as we agree prior to their performance. Additional services we can provide include but are not limited to the following:

1. response to comments beyond those included above
2. bid and construction phase services
3. construction administration
4. topographic survey and/or design
5. coordination with other agencies, including but not limited to FDOT
6. additional traffic engineering analyses
7. planning and zoning assistance

8. permitting and regulatory assistance beyond that described above
9. forensic (expert witness) services
10. landscape architecture services
11. attendance at meetings and/or public hearings beyond that described above

SCHEDULE

We will provide our services as expeditiously as practicable to meet a mutually agreed upon schedule.

FEE AND BILLING

KHA will perform the services described in this Scope of Services for the above tasks on an hourly basis in accordance with our Contract with the Town. We recommend that the following budgets be established for the project:

- Task 1 - \$2,125
- Task 2 - \$1,400
- Task 3 - \$4,525
- Task 4 - \$1,550

CLOSURE

In addition to the matters set forth herein, our Agreement shall include and be subject to, and only to, the terms and conditions in the Professional Services Agreement between the Town of Palm Beach and Kimley-Horn and Associates, Inc., dated February 9, 2009, which are incorporated by reference. As used in the Agreement, the term "CONSULTANT" shall refer to Kimley-Horn and Associates, Inc., and the term "TOWN" or "CLIENT" shall refer to The Town of Palm Beach.

If you concur in all the foregoing and wish to direct us to proceed with the services, please notify us by providing a purchase order for the scope and fees described above.

We appreciate the opportunity to propose these services to you.

Sincerely,

KIMLEY-HORN AND ASSOCIATES, INC.



By: Kevin Schanen, P.E.
Vice President



Adam B. Kerr, P.E.
Project Manager

ABK/

K:\WPB_TPTO\85294\ABK\2011\042811 A1A Parking.doc

ESTIMATE FOR ENGINEERING SERVICES

PROJECT	County Road Parking											
CLIENT	Town of Palm Beach											
ESTIMATOR	Adam Kerr											
	DATE: 04-28-11											
	ALLOCA: 0.0810											
DESCRIPTION:	DIRECT LABOR (MAN-HOURS)											
	P8 PM	P7 PM	P5 Engineer (ABK)	P4 Engineer	P1 Analyst (SBI)	D7 Designer	T3 Drafting	CLERK	SUB	COMP	EXP	LINE TOTAL
Task 1 - PERM Coordination												
- Traffic count research			2.0		2.0							\$413
- LOS Analysis			2.0		9.0							\$725
- Lane Reduction Mitig			4.0		6.0							\$982
Task 2 - Base Mapping												
- Field Visits			4.0									\$513
- Aerial Research					0.5							\$19
- Develop base map in CAD			3.0		6.0							\$854
Task 3 - Signing and Marking Plan Preparation												
- Prepare signing plan			4.0		9.0							\$1,216
- Prepare signage plan - parking/kiosk locations			1.0		3.0							\$362
- CIPK Preparation			1.0		3.0							\$362
- Respond to two rounds of comments (prelim and final)			6.0		9.0							\$1,473
- Permit application			1.0		3.0							\$362
- Coordination, plan printing, permit coordination, etc.			4.0		3.0							\$748
Meetings												
- 3 Meetings			12.0									\$1,544
TOTAL HOURS	0	0	44	0	51	0	0	0	0	0	0	95
LABOR (\$/HOUR)	204.82	148.57	118.99	99.52	72.12	102.41	60.01	71.69	1.00	0.00	1.0	
ALLOCATION	0.00	0.00	424.08	0.00	294.99	0.00	0.00	0.00	0.00	0.00	0.00	
TOTALS	0.00	0.00	5,659.64	0.00	3,936.81	0.00	0.00	0.00	0.00	0.00	0.00	\$9,596.46

TOWN OF PALM BEACH

Town Council Meeting on: May 10, 2011

Section of Agenda

Regular Agenda - Old Business

Agenda Title

Mid-Town Restroom Alternative.

Presenter

H. Paul Brazil, Director of Public Works

Supporting Documents

- Memorandum dated April 29, 2011, from H. Paul Brazil, Director of Public Works.

TOWN OF PALM BEACH

Information for Town Council Meeting on: May 10, 2011

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: H. Paul Brazil, P.E., Director of Public Works

Re: Mid-Town Beach Public Restroom Feasibility Update

Date: April 29, 2011

STAFF RECOMMENDATION

Town staff recommends that Town Council consider the preliminary analysis prepared by Town staff and provide direction as to how to move forward.

GENERAL INFORMATION

Town Council has asked Town staff to make a preliminary analysis of installing restrooms at the Mid-Town beach. Two locations were considered. One, using all or a portion of the existing Ocean Rescue building located at Australian Avenue. The other location would be a new building located north of Royal Palm Way.

The Ocean Rescue building offers the best location with respect to proximity to the existing guarded beach. Use of all, part, or constructing on top of the existing structure of the building were alternatives discussed. The finished floor of the existing building is approximately 4' below surrounding grade. In order to be ADA accessible, a ramp would need to be constructed in the north end of the building. This building has power, water, and plumbing. Due to the fact that it is recessed below street level, it also has it's own small lift station. This infrastructure is old and should be replaced considering the new, much higher demand that public facilities would experience. We are working with the Building Department to determine if we have building code limitations because of the elevation of the structure. Some concrete restoration work is anticipated.

This alternative will potentially impact the Ocean Rescue staff. Chief Blouin has informed Public Works that the existing Ocean Rescue staff could operate in as little as one half of the existing structure. If the final design of the restrooms required more space than that, it would be necessary to provide storage (rescue equipment and medical supplies) and supervisor office space elsewhere. It is not possible to fully evaluate this impact until preliminary design work is completed. It may be possible to create both storage and administrative space at a nearby existing Town facility. If this project moves forward, Public Works will assist the impacted work groups in developing alternatives for relocation.

On a very preliminary basis, modification of the existing structure would cost on the order of \$250 / sf. (estimated at \$180,000 to include construction, professional services and an allowance for unforeseen circumstances), plus relocation costs for the existing Ocean Rescue function.

Additionally, a new building located north of Royal Palm Way was considered. This location is not as close to the guarded public beach as the existing Ocean Rescue building, although the area guarded could be adjusted. This location is not directly opposite an existing residential building, so the building will have minimal visual impact. We would anticipate a 12 foot by 35 foot building, also at \$250/sf or \$130,000, plus \$50,000 for utility connections for a total estimated project cost of \$180,000. This estimate is based on a recently completed project at Phipps Ocean Park where a prefabricated building was installed.

Daily cleaning will be necessary. Based on our existing janitorial contract we anticipate requiring a budget of \$8,000 to \$10,000 per year.

Lastly, security was raised as a possible concern and impacts either alternative. Chief Blouin and his staff provided the following information. The Mid-Town Beach area currently requires a significant and visible police presence. The addition of restrooms at Mid-Town Beach would not cause a need for additional resources. The Town's Police Department would closely monitor activity at Mid-Town restrooms just as it currently does at the Phipps Ocean Park and Kreusler Park restrooms.

FUNDING/FISCAL IMPACT

If Town Council elects to move forward with this project, staff would recommend an alternatives study that would cost between \$5,000 and \$10,000. With the order of magnitude estimates above, providing restrooms at Mid-Town beach would cost approximately \$200,000.

cc: Kirk Blouin, Police Chief and Acting Fire-Rescue Chief
Eric Brown, P.E., Assistant Director of Public Works
James M. Bowser, P.E., Town Engineer
Doug Terry, Water Resources Division Manager

TOWN OF PALM BEACH

Town Council Meeting on: May 10, 2011

Section of Agenda

Regular Agenda - New Business

Agenda Title

Ibis Island Habitat Restoration Project Review

TIME CERTAIN: 11:00 A.M.

Presenter

H. Paul Brazil, Director of Public Works

Supporting Documents

- Memorandum dated April 29, 2011, from H. Paul Brazil, Director of Public Works.

TOWN OF PALM BEACH

Information for Town Council Meeting on: May 10, 2011

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: H. Paul Brazil, P.E., Director of Public Works

Re: Ibis Island Habitat Restoration Project Review

Date: April 29, 2011

STAFF RECOMMENDATION

Town staff recommends that Town Council hear a presentation by Palm Beach County Department of Environmental Resources Management (ERM) on the performance of the Ibis Island Habitat Restoration project. In addition, ERM staff will make a presentation on a proposed Grassy Flats environmental restoration project, the South Cove Natural Area and Everglades Island Artificial Reef.

GENERAL INFORMATION

The Town and County entered into an interlocal agreement in November 2002, and amended said agreement in April 2007 to cooperatively work on environmental restoration projects in the Lake Worth Lagoon. The Town owns spoil islands and properties in or adjacent to the Lake Worth Lagoon. Discussions between staffs establish potential projects in the Lagoon. The projects are located on or adjacent to said properties. The County then prepares a preliminary plan for review. Typically, this preliminary plan is then presented at a public meeting to get input from owners of property near the project. The project plans are then finalized and brought forward to Town Council for approval. The County then secures the permits, identifies funding sources, typically grants and County motor vessel licences, then bids and oversees construction of the projects. Town staff facilitates the process by acting as a liaison between the County and Town residents.

At a March 22, 2011, a public meeting held by ERM to present a proposed environmental restoration project named Grassy Flats, (said project lying south of Ibis Island and west of the Town's Par 3 Golf Course), residents of Ibis Island expressed significant concerns about a previously completed environmental restoration project, Ibis Island Habitat Restoration. ERM staff have heard the concerns and have returned to the site to collect additional information. They will share their thoughts on the project performance at the May 10 Town Council meeting.

ERM staff will also outline the proposed Grassy Flats Environmental Restoration project. The original plan presented at the public meeting has been amended in response to numerous comments on the project and these will be described at the meeting.

During the past year, the Town's attention to the Accelerated Capital Improvement Program and other priorities caused a delay in a resident-funded project to remove sediments from under the Ibis Island Bridge. After Town staff submitted the initial permit application, the South Florida Water Management District requested additional information. Town staff, with the assistance of ERM staff have completed assembling the requested information and submitted a response to SFWMD on April 29, 2011. A reply from this agency is expected within 30 days. We will continue to work diligently on this project until we obtain the permit and complete the dredging.

At the request of Town Council, ERM staff will also provide updates on the South Cove Natural Area (north and west of the Royal Park Bridge) and the Everglades Island Artificial Reef (west and south of Everglades Island).

cc: James Bowser, Town Engineer
Rich Walesky, PB County ERM
Dan Bates, PB County ERM
Julie Bishop, PB County ERM

TOWN OF PALM BEACH

Town Council Meeting on: May 10, 2011

Section of Agenda

Regular Agenda - New Business

Agenda Title

Consideration of Worth Avenue Improvement Project Design Element Amendments as Recommended by the Worth Avenue Improvement Project Review Committee (Hybrid Committee).[Thomas G. Bradford, Deputy Town Manager]

- a. Review and Approval of Proposed Design Element Amendments.
[Mark Marsh, AIA]
- b. Sunsetting of Worth Avenue Improvement Project Review Committee.

Presenter

Thomas G. Bradford, Deputy Town Manager

Supporting Documents

- Memorandum from Thomas G. Bradford, Deputy Town Manager, dated April 29, 2011

TOWN OF PALM BEACH

Information for Town Council Meeting on: May 10, 2011

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: Thomas G. Bradford, Deputy Town Manager

Re: Worth Avenue Improvement Project; Design Element Recommendations of the
Worth Avenue Improvement Project Review Committee (Hybrid Committee)

Date: April 29, 2011

STAFF RECOMMENDATION

Staff recommends that the Town Council approve the recommendations of the Worth Avenue Improvement Project Review Committee (Hybrid Committee) for improvements to be made for a second phase of work for the Worth Avenue Commercial District Improvement Project. All recommendations of the Hybrid Committee were unanimous with two exceptions, these being the Clock Tower and the fountains within the Hibiscus Plaza. Mark Marsh, AIA, will review the Hybrid Committee recommendations with you via a PowerPoint presentation. The issues associated with the Clock Tower and the fountains are explained below.

Staff also recommends that if the work of the Hybrid Committee is complete, it would be appropriate to sunset this ad hoc committee.

GENERAL INFORMATION

As the original design elements for the Worth Avenue Commercial District Improvement Project were constructed between February 17, 2010 and mid-November, 2010 some concerns, mostly pertaining to adequacy, scale and appearance, were raised by property owners, merchants and others. In addition, there was concern expressed that several additional design elements should be considered to enhance the overall appearance of the commercial district.

The Hybrid Committee was created for the purpose of streamlining the process of seeking ARCOM and Landmarks Preservation Commission approvals for such a large project. This year's version of the Hybrid Committee consisted of four members from the Landmarks Preservation Commission, three members from ARCOM, a property owner representative and a merchant representative. The plan was to follow the same path previously followed in the summer of 2009 for the approval of the original design elements, namely, creating a special committee to recommend the work to be done. Reestablishing the "Hybrid Committee" to review remaining design issues for the project was a recommendation of the Public Works Committee based on their meeting held on October 5, 2010 and approved by

the Town Council on October 12, 2010. The Town hired Mark Marsh, AIA with Bridges, Marsh & Associates to provide professional services that might arise from this process and to prepare and coordinate all preliminary design work that would be needed to enable the Hybrid Committee to review and recommend various options for project design elements.

The 2011 Hybrid Committee met 3 times; once in February, March and April to review design element options. Proper notice was given for each meeting. The meetings were well attended by property owners, property owner representatives, merchants, merchant representatives and interested citizens.

The design element recommendations of the 2011 Hybrid Committee for a proposed phase two of work to be undertaken this summer are as follows:

WORTH AVENUE IMPROVEMENTS - PHASE II

A. CLOCK TOWER:

1. Install in ground up lighting in sod area west of Tower
2. Change clock lighting to closer match "amber" light in arcade below.
3. Remove existing green island ficus and replace with silver saw palmetto in selective locations.

B. ENTRY PIERS:

1. Install uplighting on east face in existing cut outs.

C. 150 WORTH-PEDESTRIAN ENTRANCE:

1. Extend tabby sidewalk and install additional wood bench on east side to match west side of main pedestrian entrance.

D. 204 WORTH (FERRAGAMO BLDG.)

1. Install potted clay pots (existing from Hibiscus fountain) with new *Garcinia* plantings.

E. 205 WORTH (WORTH AVE. BLDG., also known as the Armour Building)

1. Remove section of tabby on east face (County Rd.) and install new mature bougainvillea extending up to stone facade. Provide irrigation as required.
2. Add clay pot in open corner at S.E. corner of building.

F. HIBISCUS FOUNTAIN

1. Remove existing coquina paving and install sod per approved plan.
2. Elevate existing trees (4) to match new finished grade with sod.
3. Remove existing ceramic tile (yellow) from back of curved bench and replace with Coquina to match seat.
4. Install curved wood pergola over bench with vines (*Thunbergia*)
5. Remove existing clay pots from centre fountain - replace with smaller clay pots
6. Replace existing flowering planting in half circle area at south end of plaza with yet to be determined plant material.
7. Install new coquina fountain bases (2) and reuse existing "lotus" marble fountains elevated on new pedestals.

G. WORTH-HIBISCUS CROSSWALK:

1. Review installing stop signs in lieu of "pedestrian crosswalk signs" at east crosswalk.

H. 300 BLOCK:

1. Install existing 2' x 2' tabby pavers in planting beds - south side only adjacent to curb.

I. GENERAL:

1. Remove creeping ficus from trunks of coconut palms.
2. Install cigarette ashtrays similar to Butler Ash Receptacle by Forms and Surfaces Subut - MOW (Black Gloss)

In addition to the recommendations of the Hybrid Committee additional work is required to complete Phase I. This work entails portions of the tabby sidewalk, installing a UPS for the clocks in the clock tower, attaching the bougainvillea in the 100 block to the facades, a remaining FPL pole relocation associated with the underground utility work and electrical panel work to complete the required segregation of streetlight service from other electrical services for the most economical electric rates for street lighting. These items were held in abeyance so as not to interfere with the 2010/2011 season.

ONGOING CONCERNS

The issue with the Clock Tower is that it is felt that its current light color often blends into the background and as such does not serve the purpose of clearly identifying for the public the entrance way to Worth Avenue. In addition to the items recommended by the Hybrid Committee listed above for the Clock Tower, Mr. Marsh prepared numerous alternatives to address this concern including copper cladding for the Clock Tower dome. These were rejected. Relocating the two coconut palms, those immediately adjacent to the Clock Tower was also discussed. Only one member of the Hybrid Committee felt strongly about the issue of the clock tower.

In regard to the Hibiscus Plaza fountains, the Hybrid Committee voted 4-3 to keep the status quo. The primary concerns expressed by property owners and merchants were that the existing fountains do not adequately attract people to them as a resting place since the design provides for no seating around the fountains as is done with the reflecting pool and the existing marble fountains are inadequate relative to the water feature.

Mr. Marsh presented three alternatives to the status quo, one of which was submitted to him by a property owner and supported by the property owners and merchants. The two alternatives prepared by Mr. Marsh incorporated all of the elements within the submittal by the property owner except that each kept the existing marble fountains as the centerpiece. From the property owner and merchant perspective, if the marble fountains are lacking when they stand alone, they are lacking as a centerpiece to an alternative. The alternative submitted by the property owner provided a seating element around the edges of the base of the fountain, but introduced a stone like material to the Hibiscus Plaza which primarily consists of cut coquina. The Hybrid Committee did select a preference (the one with scalloped edges) between the two alternate designs submitted by Mr. Marsh and this was the option supported by the minority in the 4-3 vote to keep the status quo.

I refer to each of these issues as ongoing concerns because the Worth Avenue Restoration Association, a contingent of the majority property owners that were instrumental in initiating the original project, sent a letter to me following the last Hybrid Committee meeting indicating that in light of the outcome they requested that no additional funds be expended and that all left over funds be used to retire outstanding debt. Since we have work to do to complete Phase I we cannot honor their request to not spend additional funds and it is therefore premature to proceed to retiring debt. Nevertheless, staff does not desire to end this project on a sour note. If a compromise can be found it would provide for better relations with those persons and entities that are footing the cost of this entire project.

CONCLUSION OF THE HYBRID COMMITTEE'S WORK

If the Town Council concludes that the work of this ad hoc committee is complete the Town Council should officially sunset the committee for the record.

FUNDING/FISCAL IMPACT

The direct fiscal impacts to the Town will be the cost of any approved design element additions or amendments. However, these costs will be paid for with remaining funds in the Worth Avenue Improvement Project account funded by the 2010 Series B bond issue, the debt service for which is paid for 100% by non-ad valorem assessments levied against those benefiting properties. The Town will incur indirect costs of staff time devoted to administering the approved work to be done, but such costs are covered by the adopted current fiscal year budget.

cc: H. Paul Brazil, Director of Public Works
Jane Struder, Director of Finance
John S. Page, Director of Planning, Zoning and Building
Eric Brown, Assistant Director of Public Works
Sherry Frankel, President Worth Avenue Association
Robin Miller, Administrator, Worth Avenue Association
Jane Rankin, Esq., Worth Avenue Restoration Association

N: TGB/Agenda Items/2011/ Worth Avenue Improvement Project; Design Element Recommendations of the Worth Avenue Improvement Project Review Committee (Hybrid Committee) 051011TCM

TOWN OF PALM BEACH

Town Council Meeting on: May 10, 2011

Section of Agenda

Regular Agenda - New Business

Agenda Title

Offer to Purchase 110 Angler Avenue.

Presenter

John C. Randolph, Town Attorney

Supporting Documents

- Memorandum dated May 4, 2011, from John Randolph
- Option Agreement
- Memorandum dated December 3, 2010, from John Randolph
- E-Mail dated May 4, 2011, from John Randolph
- Agreement for Purchase and Sale

TOWN OF PALM BEACH

Information for Town Council Meeting on: May 10, 2011

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: John C. Randolph, Town Attorney

Re: Offer to Purchase 110 Angler Avenue

Date: May 4, 2011

STAFF RECOMMENDATION

The Town Attorney recommends that the Town Council approve the attached Option Agreement and authorize its execution subject to the Mayor and Town Council being in agreement with its terms.

GENERAL INFORMATION

The Town obtained title to the property at 110 Angler Avenue pursuant to the foreclosure of a Code Enforcement Board lien. The Town does not presently have clear title to the property making it difficult to market the property for sale. The details regarding this matter were set forth in a memo to the Mayor and Town Council dated December 3, 2010, copy attached.

On January 4, 2011, Maura Ziska, on behalf of her clients, proposed terms which she said would be acceptable to her clients. Pursuant to the Council's direction, we have negotiated an Option Agreement with Maura Ziska's clients, J. Michael Chu and Elizabeth K. Chu. A copy of the Option Agreement is attached. In summary, this Option Agreement provides that the Chus will pay the Town an option fee of \$210,000.00, which amount is nonrefundable and which represents the amount of the Town's code enforcement liens plus \$50,00.00 in attorney's fees to allow the Town to proceed with a quiet title action. The purchase price under the Option Agreement is \$925,000.00. The Agreement contemplates the Town quieting title in the property by filing a suit to quiet title on or before September 28, 2011 and, upon quieting title, conveying the property to the Chus. Any fees over and above the \$50,000.00 initially paid by the Chus shall be reimbursed by the Chus to the Town. The Chus shall receive a credit against the \$925,000.00 purchase price for the option fee and additional attorney's fees. In the event the Town is not successful in its quiet title action, the option shall not be exercised and the Town shall keep the initial \$210,000.00 option fee, plus any additional attorney's fees paid. The Agreement contains a provision which gives the Town the right to settle the quiet title action, in which case the terms of the settlement between the Town and the Chus are spelled out.

As you can see, this Agreement is fairly complicated but we believe it provides the Town the opportunity to recover the costs of its lien, as well as to obtain the proceeds of sale in the event it is successful in quieting title. Others have expressed an interest in this property, but none have been willing to pay off the Town's lien and its attorney's fees in a nonrefundable manner as have the Chus. We believe, therefore, this Option Agreement is favorable to the Town.

ATTACHMENTS

Memo to Mayor and Town Council dated December 3, 2010
Option Agreement

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OPTION AGREEMENT

THIS OPTION AGREEMENT (this "Agreement"), made this _____ day of _____, 2011, by and between The Town of Palm Beach, a Florida municipal corporation (hereinafter referred to as "Optionor"), and J. Michael Chu and Elizabeth K. Chu, husband and wife (hereinafter referred to as "Optionee").

WITNESSETH:

WHEREAS, Optionor is the record title owner of that certain real property located in Palm Beach County, Florida, more particularly described in Schedule 1 attached hereto and incorporated herein (the "Property"), having acquired the Property pursuant to a Certificate of Title issued by the Clerk of the Circuit Court of Palm Beach County, Florida on October 20, 2010 and recorded in Official Record Book 24150, Page 0477, of the Public Records of Palm Beach County, Florida; and;

WHEREAS, Optionor has agreed to grant to Optionee the right and option to purchase the Property from Optionor, subject to the terms and conditions hereinafter set forth; and

NOW, THEREFORE, for Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Optionor does hereby grant to Optionee the right and option to purchase the Property from Optionor, in accordance with the terms and conditions set forth herein (hereinafter the "Option");

ARTICLE 1

TERMS OF THE OPTION

1.1 **Term of Option.** The term of this Option shall commence upon the execution of this Agreement by Optionor and Optionee (the "Effective Date") and shall expire on the earlier of 15 days after Optionor delivers to Optionee the "Clean Title Commitment" (as hereinafter defined) or two (2) years after the Effective Date (the "Option Period"), as the Option Period may be extended by Optionee as provided in Section 2.3 hereof.

1.2 Consideration for the Option.

1.2.1 Simultaneous with the mutual execution of this Agreement, Optionee shall pay to Optionor, as partial consideration for the grant of this Option, an option fee (the "Initial Option Fee") in the amount of Two Hundred Ten Thousand Dollars (\$210,000.00), receipt of which is acknowledged. Optionee may be required to pay the Additional Option Fees (as hereinafter defined in Section 2.5). The Initial

Option Fee and the Additional Option Fees are collectively defined as the "Option Fees". The failure of Optionee to pay any of the Option Fees within the time required by this Agreement shall cause the Option to terminate and Optionee's right to purchase the Property shall likewise terminate and be null and void. All Option Fees paid are non-refundable.

1.3 Exercise of Option.

1.3.1 Optionee shall exclusively exercise the Option by delivering written notice to Optionor advising that Optionee is exercising the Option (the "Option Notice"). The Option Notice must be delivered to Optionor no later than the expiration of the Option Period, as the Option Period may be extended as provided herein.

1.3.2 Failure of Optionee for any reason whatsoever to pay any of the Option Fees or to properly and timely exercise its Option shall conclusively be deemed a waiver by Optionee of its right to exercise its Option. Upon the exercise of this Option, which exercise is conditioned on and subject to Optionee's receipt of the Clean Title Commitment (as hereinafter defined), the Optionor agrees to sell and convey to Optionee, and Optionee agrees to purchase, the Property under the terms of this Agreement.

ARTICLE 2

TERMS OF CONVEYANCE

Purchase Price. The purchase price ("Purchase Price") for Optionor's conveyance of the Property to Optionee shall be: \$925,000.00. Optionee shall receive a credit at closing for the amount of the Option Fees previously paid.

The Purchase Price shall be paid to Jones, Foster, Johnston & Stubbs, P.A., by wire transfer of immediately available funds, as agents for the Title Company (as hereinafter defined) and the Property shall be conveyed by customary municipal deed to Optionor as provided herein.

2.1 **Closing Date.** The closing of the conveyance of the Property to Optionee (the "Closing") shall occur on the date (the "Closing Date"), which shall be fifteen (15) days after the date of the Option Notice. The Closing shall occur at 11:00 a.m. on the Closing Date, at the offices of Jones, Foster, Johnston & Stubbs, P.A. in West Palm Beach, Florida.

2.2 **Evidence of Title.** Optionor has disclosed to Optionee that the following mortgages: (a) mortgage recorded in Official Record Book 19731, Page 1207, in the Public Records of Palm Beach County, Florida in the original principal amount of \$1,446,250.00 in favor of Mortgage Electronic Registration Systems, Inc., as Nominee for Countrywide Bank, N.A., as assigned to Countrywide Bank, FSB by Assignment of Mortgage recorded in Official Record Book 22860, Page 0694, in the Public Records of Palm Beach County, Florida (the "First Mortgage") and (b) mortgage (Line of Credit) recorded in Official Record Book 19731, Page 1267 in the Public Records of Palm

Beach County, Florida in favor of Mortgage Electronic Registration Systems, Inc., as Nominee for Countrywide Bank, N.A. in the original principal amount of \$556,250.00 (the "Second Mortgage") (collectively the "Mortgages") appear of record in the Public Records of Palm Beach County, Florida and purport to encumber the Property.

The First Mortgage is the subject of a foreclosure action filed by Countrywide Bank, FSB, which has filed a Lis Pendens on the Property. Optionor agrees to use commercially reasonable efforts to obtain a title insurance commitment from a title insurance company authorized to do business in the State of Florida (the "Title Company") in an amount equal to the purchase price, without exception for the Mortgages, the above-referenced Lis Pendens, the mortgage foreclosure action referenced above, or any other exceptions except for the matters shown on Schedule 2, the "Permitted Title Exceptions", which title commitment is defined as the "Clean Title Commitment". The Permitted Exceptions shall also include taxes and assessments for the year of closing if not yet due and payable, and any subsequent matters occurring after the Effective Date of this Agreement that do not materially affect the value of the Property for residential purposes.

Optionor's commercially reasonable efforts shall include (a) the filing of a lawsuit against the holders of the Mortgages, or (b) filing appropriate counterclaims or affirmative defenses in response to any action filed by the holders of the Mortgages against Optionor, seeking to quiet title to the Property in favor of Optionor (the "Quiet Title Action"). Optionor agrees to file the Quiet Title Action on or before September 28, 2011 and to diligently prosecute the Quiet Title Action to its conclusion. Optionor shall cause copies of all pleadings filed in the Quiet Title Action to be forwarded to Optionee's Counsel (as hereinafter defined). In the event Optionor prevails in the Quiet Title Action, with no representation or prediction as to the likelihood of prevailing in the Quiet Title Action, Optionor shall deliver the Clean Title Commitment to Optionee within 15 days upon the rendering of a final non-appealable judgment in favor of Optionor, including the running of all times for appeals and motions for rehearing.

2.3 Extension of Option Period. Provided Optionee has fully complied with all of its obligations under this Agreement, in the event the Clean Title Commitment is not delivered to Optionee within 15 days prior to the end of the Option Period, Optionee may extend the Option Period for an additional year by giving Optionor written notice on or before two years after the Effective Date of this Agreement that Optionee extends the Option Period for an additional year.

2.4 Right to Settle. Optionor reserves the right to settle its title dispute with Lender regarding the Property at any time, including before or after the commencement of the Quiet Title Action, upon terms and conditions satisfactory to Optionor in its sole discretion without any approval of Optionee; provided however, Optionor agrees that it will not voluntarily settle its title dispute with the Lender and will continue to prosecute the Quiet Title Action unless it receives settlement proceeds from the Lender equal or greater than the Option Fees theretofore paid by Optionee (the "Settlement Proceeds"). After receipt of the Settlement Proceeds, Optionor shall pay to Optionee from the Settlement Proceeds an amount equal to the Option Fees previously paid by Optionee.

to Optionor and twenty-five percent (25%) of any amounts in excess of the Option Fees paid by Optionee and received by Optionor, or in the case of the Additional Option Fees for Optionor's attorney's fees and costs, such attorney's fees and costs as have been incurred by Optionor and not paid by Optionee. Upon payment of the portion of the Settlement Proceeds to Optionee, this Agreement shall automatically terminate as well all of Optionee's rights hereunder.

2.5 **Additional Option Fees**. \$50,000.00 of the Initial Option Fee shall be utilized by Optionor for legal fees and costs incurred in connection with its dispute with the Lender, including the fees and expenses of the Quiet Title Action, any and all appeals and rehearings of same, and any settlement or settlement negotiations (the "Legal Costs"). In the event \$50,000.00 of the Initial Option Fee is fully expended for Legal Costs, Optionor shall render Optionee written notice on a monthly basis of the amount of the Legal Costs incurred for the previous month (the "Monthly Statement"). Optionee acknowledges that the details of such Monthly Statements are privileged communications between the Optionor and its attorneys, and therefore only the amount due from Optionee shall be shown on the Monthly Statement, each of which Monthly Statements shall constitute Additional Option Fees to be paid by Optionee. In order to prevent this Option from terminating, Optionee shall pay to Optionor within twenty (20) days after receipt of the Monthly Statement, the amounts specified in the Monthly Statement. The failure of Optionee to pay the Additional Option Fees set forth in the Monthly Statements, within the time herein specified, shall constitute a termination of the Option and Optionee shall have waived its right to exercise the Option and this Agreement shall be immediately terminated.

2.6 **As Is – Where Is**. Optionor disclaims the making of any representations or warranties, express or implied, regarding the Property or matters affecting the Property, including but not limited to its physical condition, the boundaries of the Property, soil condition, compliance with building, health, safety, land use, and zoning laws, regulations and orders, the ability to develop the Property for any purpose, and all other information pertaining to the Property. Optionee, moreover, acknowledges that Optionee is not relying upon any statements, representations, or warranties made by Optionor or anyone acting or claiming to act on Optionor's behalf concerning the Property. Optionee's acceptance of the Deed shall constitute a discharge of all of the obligations of Optionor to Optionee in this Agreement. Optionee shall, upon its exercise of the Option, purchase the Property in its "AS-IS, WHERE-IS" condition as of Closing, and Optionee expressly acknowledges that, in consideration of the agreements of Optionor herein, and except as otherwise expressly specified herein, OPTIONOR MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, INCLUDING BUT NOT LIMITED TO ANY WARRANTY AS TO CONDITION, ZONING, AVAILABILITY OF ACCESS, AVAILABILITY OF UTILITIES AND GOVERNMENTAL APPROVALS, HABITABILITY, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY.

2.7 **Conveyance of Title**. Optionor shall convey or cause to be conveyed at Closing fee simple title to the Property to Optionee by customary municipal deed (the

Post Office Box 2029
360 South County Road
Palm Beach, FL 33480
Attn: Peter B. Elwell, Town Manager
Facsimile No.: (561) 838-5411

With a Copy To: Jones, Foster, Johnston & Stubbs, P.A.
505 South Flagler Drive
Suite 1100
West Palm Beach, Florida 33401
Attn: John C. Randolph, Esq.
Facsimile: (561) 650-0465

Optionee: J. Michael Chu and Elizabeth K. Chu
1340 North Ocean Boulevard
Palm Beach, FL 33480
Facsimile No.: _____

With a Copy To
Optionee's Counsel Kochman & Ziska PLC
222 Lakeview Avenue
Suite 1500
West Palm Beach, Florida 33401
Attn: Maura Ziska, Esq.
Facsimile: (561) 802-8995

Either party may change its address for the giving of notices by notice given in accordance with this Section.

3.2 **Default.**

3.2.1 In the event that Optionee breaches this Agreement, which breach is not cured within five (5) days after written notice to Optionee, other than failure to make monetary payments as required, for which there shall be no cure period, Optionor shall, as its sole and exclusive remedy, have the right to terminate this Agreement and to retain all sums previously paid to Optionor by Optionee hereunder, as its sole and exclusive remedy and thereupon the Optionor and Optionee shall be released from all obligations and liabilities to each other arising out of this Agreement. Optionee, in its sole discretion, may cancel this Agreement at any time by written notice to Optionor provided however such cancellation shall not entitle Optionee to a refund of any Option Fees paid, all of which are non-refundable.

3.2.2 In the event that Optionor fails to perform any of the covenants or agreements, Optionee shall have the right to specific performance of this Agreement or, at Optionee's election, all sums paid by Optionee hereunder shall be returned, thereby

waiving Optionee's rights for damages; provided however, Optionee acknowledges and agrees that Optionor's failure to obtain a Clean Title Commitment within the Option Period shall not be a breach of this Agreement and shall not entitle Optionor to any rights of specific performance, a refund of any Option Fees paid or any other damages.

3.3 **Third Parties.** Nothing contained in this Agreement, whether express or implied, is intended to or shall confer any rights, benefits or remedies upon any persons other than the Optionor and Optionee.

3.4 **Construction.** Wherever the context hereof shall so require, the singular shall include the plural, the male gender shall include the female gender and the neuter, and vice versa. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein. The parties hereby agree that each have played an equal part in the negotiations and drafting of this Agreement, and in the event any ambiguity shall be realized in the construction or interpretation of this Agreement, the result of those ambiguities shall be equally assumed and realized by each of the parties to this Agreement.

3.5 **Binding Effect; Assignment.** This Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective successors and assigns. Optionee may not assign this Agreement, and its rights hereunder, without the prior written consent of the Optionor, which may be withheld in Optionor's sole discretion.

3.6 **Merger.** This Agreement set forth the entire understanding among the parties with respect to the subject matter hereof. This Agreement may not be amended, modified or terminated, except by written instrument executed by all parties hereto.

3.7 **Headings.** The captions, article numbers, section numbers and paragraph headings are inserted herein only as a matter of convenience, and in no way are intended to define, limit, construe or describe the scope or intent of such articles, sections or paragraphs of this Agreement, nor in any way affect this Agreement.

3.8 **Governing Law.** This Agreement shall be governed and interpreted under the laws of the State of Florida. The parties agree that venue of any action or proceeding regarding this Agreement shall be in Palm Beach County, Florida.

3.9 **Time is of the Essence.** Time shall be of the essence with respect to each provision of this Agreement that requires action to be taken by either party within a stated period of time, or upon a specified date, including but not limited to the payment of any Option Fees. If the time period by which any right, option or election provided under this Agreement must be exercised, or by which any act required under this Agreement must be performed, or by which Closing must be held, expires on a

Saturday, Sunday or a holiday, then such time period shall be automatically extended to the next business day.

3.10 **Facsimile, Electronic Copy And Counterparts**. This Agreement may be executed and delivered in any number of counterparts, each of which, when so executed and delivered, shall be and constitute an original and one and the same document. A facsimile or electronic copy of this Agreement and any signatures hereon shall be considered for all purposes as originals.

3.11 **No Recordation**. This Agreement is not recordable and neither this Agreement nor any memorandum of this Agreement shall be recorded by Optionee in the public records of any county in Florida. The recording by Optionee of this Agreement shall constitute a material breach hereof by Optionee, and shall automatically terminate Optionee's rights under this Agreement.

3.12 **Radon Gas**. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risk to persons who are exposed to it over time. Levels of radon that exceed Federal and State Guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit. [Note: This Section is provided for informational purposes.]

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the parties have caused these presents to be executed on the day and year first written above.

Signed, sealed and delivered
in the presence of:

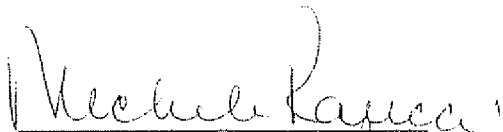
"OPTIONOR";

THE TOWN OF PALM BEACH,
a Florida municipal corporation

Print Name: _____

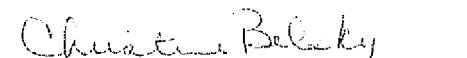
By: _____
Print Name: _____
Title: _____

Print Name: _____


Print Name: Michele Rausa


Print Name: Christine Belsky


Print Name: Michele Rausa


Print Name: Christine Belsky

"OPTIONEE":


J. Michael Chu


Elizabeth K. Chu

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SCHEDULE 1

LEGAL DESCRIPTION OF THE PROPERTY

That part of Lot 8, Ocean Terrace, according to the map or plat thereof as recorded in Plat Book 20, Page 64, Public Records of Palm Beach County, Florida, described as follows:

Beginning at the Southwest corner of said Lot 8, run thence Easterly along the South line of Lot 8, a distance of 91.10 feet to a point in said line; run thence Northerly at an angle of 81° 05' 40" to the preceding course, said angle being measured from West to North to a point in the North line of Lot 8, run thence Westerly along the North line of Lot 8, around the Northwest corner of said Lot 8, and thence Southerly along the West line of said Lot 8 to the Point of Beginning.

Together with a non-exclusive easement running with the land over, across and upon the tract of land described and bounded as follows:

Bounded on the North by the Easterly projection of the South line of Angler Avenue, on the South by a line parallel to and 63.77 feet South of (measured at right angles) to the Easterly projection of the South line of Angler Avenue; on the West by Ocean Boulevard and on the East by the Atlantic Ocean.

The Subject Property has a street address of 110 Angler Avenue, Palm Beach, Florida 33480.

Parcel Control Number: 50-43-43-03-000-0082

SCHEDULE 2

PERMITTED EXCEPTIONS

1. The lien of all taxes for the year in which Closing occurs and thereafter, which are not yet due and payable.
2. Matters as shown on the Plat of Ocean Terrace, as recorded in Plat Book 20, Page 64, Public Records of Palm Beach County, Florida.
3. Easements as granted and reserved in that certain Deed recorded in Deed Book 957, Page 395, Public Records of Palm Beach County, Florida.
4. The rights of Ocean Terrace Beach Club, Inc., and Palm Beach County as to the easement insured hereby.
5. Ocean Terrace Beach Club, Inc., By-Laws, Rules and Regulations recorded in O.R. Book 9506, Page 633, and in O.R. Book 9761, Page 1237, Public Records of Palm Beach County, Florida.
6. Riparian and/or littoral rights are not insured.
7. The right, title or interest, if any, of the public to use a public beach or recreation area or any part of the land described in Schedule A hereof, lying between the water abutting said land and the most inland of any of the following: (a) the natural line of vegetation; (b) the most extreme high water mark; (c) the bulkhead line; or (d) any other line which has been or which hereafter may be legally established as relating to such public use.
8. This Policy does not insure title to any part of the land lying below the mean high water line of any abutting body of water.

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 14, 2010

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: John C. Randolph, Town Attorney

Re: Town of Palm Beach vs Steven J. Macari
Case No. 50 2009 CA 023652 XXXX MB AD
110 Angler Avenue

Date: December 3, 2010

STAFF RECOMMENDATION

Staff requests that the Mayor and Town Council give consideration to the offers to purchase relating to the above referenced property which was received by the Town by virtue of a foreclosure action resulting in a Certificate of Title being issued to the Town.

GENERAL INFORMATION

As previously advised, the Town prevailed in regard to a foreclosure on a code enforcement lien relating to the property located 110 Angler Avenue in the Town of Palm Beach. See Exhibit "A" attached. As a result, the Town was issued a Certificate of Title on October 20, 2010, Exhibit "B". Subsequently, the Town has received two separate offers to purchase the property for \$900,000.00. Copies of the contracts are attached as Composite Exhibit "C". The offers, in order to be valid, require acceptance by December 17, 2010 and December 16, 2010, respectively. In order to allow the Town to give further consideration to this matter, we ordered an appraisal of the property. A copy of the appraisal is attached (Exhibit "D"), ascribing an appraised value to the property of \$885,000.00. Based on the appraisal, the offers appear to be reasonable. The offers, however, are based upon the Town being able to provide marketable record title.

We have checked with various title companies and find that they will not insure title to this property under the circumstances. The circumstances are that there is another foreclosure pending relating to this property which was filed by Countrywide Bank relating to the bank's mortgage in the amount of \$1,446,250.00. There is also a line of credit mortgage against the property by Mortgage Electronic Registration Systems as nominee for Countrywide Bank in the amount of \$556,250.00 not addressed in the complaint for foreclosure. As you will note from our foreclosure complaint both Countrywide Bank and Mortgage Electronic Registration Systems, as well as Macari, were named as defendants in the Town's foreclosure

action. None of these parties responded to the complaint. Therefore, the Town received a Final Judgment of Foreclosure on July 13, 2010, copy attached.

Because we cannot provide marketable record title to the property, the Town is not in a position to execute either contract

There are several options available to the Town. The title companies suggest that they could provide clear title if the Town were to file a quiet title action and prevail. This action could take place by way of intervention in the pending foreclosure action or by way of a stand alone lawsuit. There would be obvious fees and costs attached to this alternative which could be substantial and the outcome of such a suit is unknown. Rather than file suit, perhaps a better alternative is to authorize us to negotiate with the prior lien holders to see what they would be willing to offer the Town in exchange for the Town divesting itself of its interest in this property and setting aside the Final Judgment of Foreclosure. Another alternative is to not take any action at this time and simply wait for Countrywide, now known as Bank of America, to come to the Town in regard to this matter.

In addition to the \$25,163.37 referenced in the Final Judgment of Foreclosure, an additional lien was imposed on this property when the owner was brought back before code enforcement as a repeat offender. That fine ran from January 22, 2010 at \$500.00 a day to the date the Town received the Certificate of Title and has increased to a total amount of \$136,150.00. Therefore, the Town's total lien against this property is \$161,313.37.

We would request the advice of the Town Council as to how it wishes to proceed in regard to this matter.

ATTACHMENTS

Exhibit "A" - Final Judgment of Foreclosure, dated July 13, 2010

Exhibit "B" - Certificate of Title, dated October 20, 2010

Exhibit "C - 1" - Contract for Sale and Purchase from J. Michael Chu

Exhibit "C - 2" - Contract for Sale and Purchase from Barry Moss

Exhibit "D" - Appraisal prepared by Anderson & Carr, Inc., dated November 15, 2010

P:\DOCS\13156\00312\DOC\19N3208.DOC

IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT IN AND FOR
PALM BEACH COUNTY, FLORIDA

CASE NO.: 502009CA023652XXXXMB AD

TOWN OF PALM BEACH, a municipal
corporation of the State of Florida,

Plaintiff,

vs.

STEPHEN J. MACARI, an individual,
MORTGAGE ELECTRONIC REGISTRATION
SYSTEMS, INC., a Delaware corporation, acting
solely as nominee for COUNTRYWIDE BANK,
N.A., and BANK OF AMERICA, N.A. f/k/a
Countrywide Bank, FSB

Defendants.

2010 JUL 13 PM 3:58
CLERK
PALM BEACH COUNTY, FL
CIVIL 5

FINAL JUDGMENT OF FORECLOSURE

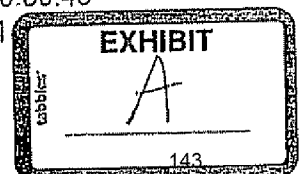
THIS CASE was considered by the Court on July 13, 2010 on Plaintiff's Motion for Entry of Final Judgment of Foreclosure by Reason of Default or alternatively, for Summary Judgment, and the Court having reviewed the Affidavits filed by Plaintiff in support of the Motion, it is:

HEREBY ORDERED AND ADJUDGED that:

1. Plaintiff, TOWN OF PALM BEACH, c/o Jones, Foster, Johnston & Stubbs, P.A., P. O. Box 3475, West Palm Beach, Florida 33402-3475 is due:

Principal	\$17,150.00
Interest to date of this judgment	\$2,609.77
Attorney's fees:	\$4,818.00
Court costs, now taxed	<u>\$585.60</u>
TOTAL	\$25,163.37

CFN 20100266311, OR BK 23962 PG 1197, RECORDED 07/22/2010 10:30.45
Sharon R. Bock, CLERK & COMPTROLLER, Palm Beach County, NUM



that shall bear interest at the rate of six percent (6%) per annum until paid ("Total Sum Due").

2. Plaintiff holds a code enforcement lien for the Total Sum Due superior to all claims or estates of Defendants herein on the following described property in Palm Beach County, Florida (hereinafter referred to as the "Subject Property"):

That part of Lot 8, Ocean Terrace, according to the map or plat thereof as recorded in Plat Book 20, Page 64, Public Records of Palm Beach County, Florida, described as follows:

Beginning at the Southwest corner of said Lot 8, run thence Easterly along the South line of Lot 8, a distance of 91.10 feet to a point in said line; run thence Northerly at an angle of $81^{\circ} 05' 40''$ to the preceding course, said angle being measured from West to North to a point in the North line of Lot 8, run thence Westerly along the North line of Lot 8, around the Northwest corner of said Lot 8, and thence Southerly along the West line of said Lot 8 to the Point of Beginning.

Together with a non-exclusive easement running with the land over, across and upon the tract of land described and bounded as follows:

Bounded on the North by the Easterly projection of the South line of Angler Avenue, on the South by a line parallel to and 63.77 feet South of (measured at right angles) to the Easterly projection of the South line of Angler Avenue; on the West by Ocean Boulevard and on the East by the Atlantic Ocean.

The Subject Property has a street address of 110 Angler Avenue, Palm Beach, Florida 33480.

Parcel Control Number: 50-43-43-03-03-000-0082

3. If the Total Sum Due with interest at the rate described in paragraph 1, and all costs accrued subsequent to this Judgment are not paid, the Clerk of this court shall sell the Subject Property, at public sale on the 17th day of August, 2010, to the highest bidder for cash, in accordance with Section 45.031, Florida

Statutes, by electronic sale beginning at 10:00 a.m. on the prescribed date at www.mypalmbeachclerk.clerkauction.com. The foreclosure sale can be canceled by court order.

4. Plaintiff shall advance all subsequent costs of this action and shall be reimbursed for them by the Clerk if Plaintiff is not the purchaser of the Subject Property for sale, provided, however, that the purchaser of the property for sale shall be responsible for the documentary stamps payable on the Certificate of Title. If Plaintiff is the purchaser, the Clerk shall credit Plaintiff's bid with the Total Sum Due with interest and costs accruing subsequent to this judgment, or such part of it as is necessary to pay the bid in full.

5. On filing the Certificate of Title, the Clerk shall distribute the proceeds of the sale, so far as they are sufficient by paying: *first*, all of Plaintiff's costs; *second*, documentary stamps affixed to the Certificate; *third*, Plaintiff's attorneys' fees; *fourth*, the Total Sum Due to Plaintiff less the items paid, plus interest at the rate prescribed in paragraph 1 from this date to the date of the sale; and by retaining any remaining amount pending the further order of this court.

6. On filing the Certificate of Sale, Defendants and all other persons claiming under or against Defendants since the filing of the Notice of Lis Pendens, shall be foreclosed of all estate or claim in the Subject Property, except as to claims or rights under Chapter 718 or Chapter 720, Florida Statutes, if any. Upon the filing of the Certificate of Title, the person named on the Certificate of Title shall be let into possession of the Subject Property.

7. Jurisdiction of this action is retained to enter further orders that are proper including, without limitation, writs of possession and a deficiency judgment against

Defendant, STEPHEN J. MACARI, with regard to any portion of the Total Sum Due unpaid following the foreclosure sale ordered herein.

8. The last known address for Defendant, STEPHEN J. MACARI, is 149 Fern Street, Jupiter, FL 33458.

9. The last known address for Defendant, MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., c/o Registered Agent Electronic Data Systems, LLC, 3300 SW 34th Avenue, Suite 101, Ocala, FL 34474.

10. The last known address for Defendant, BANK OF AMERICA, NA f/k/a COUNTRYWIDE BANK FSB, c/o Registered Agent: CT Corporation, 1200 S. Pine Island Road, Suite 250, Plantation, FL 33324.

11. Pursuant to Florida Statute § 45.031(1) (2007) Notice is provided by this Judgment that:

IF THE SUBJECT PROPERTY IS SOLD AT PUBLIC AUCTION, THERE MAY BE ADDITIONAL MONEY FROM THE SALE AFTER PAYMENT OF PERSONS WHO ARE ENTITLED TO BE PAID FROM THE SALE PROCEEDS PURSUANT TO THIS FINAL JUDGMENT.

IF YOU ARE A SUBORDINATE LIENHOLDER CLAIMING A RIGHT TO FUNDS REMAINING AFTER THE SALE, YOU MUST FILE A CLAIM WITH THE CLERK NO LATER THAN 60 DAYS AFTER THE SALE. IF YOU FAIL TO FILE A CLAIM, YOU WILL NOT BE ENTITLED TO ANY REMAINING FUNDS.

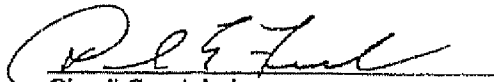
IF YOU ARE THE PROPERTY OWNER, YOU MAY CLAIM THESE FUNDS YOURSELF. YOU ARE NOT REQUIRED TO HAVE A LAWYER OR ANY OTHER REPRESENTATION AND YOU DO NOT HAVE TO ASSIGN YOUR RIGHTS TO ANYONE ELSE IN ORDER FOR YOU TO CLAIM ANY MONEY TO WHICH YOU ARE ENTITLED. PLEASE CHECK WITH THE CLERK OF THE COURT, FIFTEENTH JUDICIAL CIRCUIT, IN AND FOR PALM BEACH COUNTY, FLORIDA, WITHIN TEN (10) DAYS AFTER THE SALE TO SEE IF THERE IS ADDITIONAL MONEY FROM THE FORECLOSURE SALE THAT THE CLERK HAS IN THE REGISTRY OF THE COURT.

IF YOU DECIDE TO SELL YOUR HOME OR HIRE SOMEONE TO HELP YOU CLAIM THE ADDITIONAL MONEY, YOU SHOULD READ VERY CAREFULLY ALL PAPERS YOU ARE REQUIRED TO SIGN, ASK SOMEONE ELSE,

PREFERABLY AN ATTORNEY WHO IS NOT RELATED TO THE PERSON OFFERING TO HELP YOU, TO MAKE SURE THAT YOU UNDERSTAND WHAT YOU ARE SIGNING AND THAT YOU ARE NOT TRANSFERRING YOUR PROPERTY OR THE EQUITY IN YOUR PROPERTY WITHOUT THE PROPER INFORMATION. IF YOU CANNOT AFFORD TO PAY AN ATTORNEY, YOU MAY CONTACT LEGAL AID SOCIETY OF PALM BEACH COUNTY AT (561) 655-8944 TO SEE IF YOU QUALIFY FINANCIALLY FOR THEIR SERVICES. IF THEY CANNOT ASSIST YOU, THEY MAY BE ABLE TO REFER YOU TO A LOCAL BAR REFERRAL AGENCY OR SUGGEST OTHER OPTIONS. IF YOU CHOOSE TO CONTACT LEGAL AID SOCIETY OF PALM BEACH COUNTY FOR ASSISTANCE, YOU SHOULD DO SO AS SOON AS POSSIBLE AFTER RECEIPT OF THIS NOTICE.

ORDERED and ADJUDGED in Palm Beach County, Florida this 13 day of

July, 2010.


Circuit Court Judge

Copies furnished to:

Allen R. Tomlinson, Esquire, Jones, Foster, Johnston & Stubbs, P.A., P.O. Box 3475, West Palm Beach, Florida 33402-3475

Stephen J. Macari, 149 Fern Street, Jupiter, FL 33458

Mortgage Electronic Registration Systems, Inc., c/o Registered Agent: Electronic Data Systems, LLC, 3300 SW 34th Avenue, Suite 101, Ocala, FL 34474

Bank of America, NA f/k/a Countrywide Bank, FSB, c/o Registered Agent: CT Corporation, 1200 S. Pine Island Road, Suite 250, Plantation, FL 33324

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1020
IN THE CIRCUIT COURT OF THE JUDICIAL
CIRCUIT IN AND FOR PALM BEACH COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO. 2009CA023652 *AW*

CFN 20100400439
OR BK 24150 PG 0477
RECORDED 10/21/2010 08:26:26
Palm Beach County, Florida
AMT 1,300.00
Doc Stamp 9.10
Sharon R. Bock, CLERK & COMPTROLLER
Pgs 0477 - 478; (2pgs)

TOWN OF PALM BEACH

Plaintiff (s) / Petitioner (s)

vs.

STEPHEN J MACARI; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INC ASTING SOLELY AS NOMINEE FOR
COUNTRYWIDE BANK NA; BANK OF AMERICA NA FKA COUNTRYWIDE BANK FSB
Defendant (s) / Respondent (s)

CERTIFICATE OF TITLE

Chapter 45

THE UNDERSIGNED CLERK OF this Court Certifies that a Certificate of Sale was executed and filed in this
action on September 30, 2010 for the property described herein and that objections to the sale have either not been filed
within the time allowed by statutory law or, if filed, have been heard by the court. The property in Palm Beach County,
Florida is described as follows:

10-9-10
That part of Lot 8, Ocean Terrace, according to the map or plat thereof as recorded in Plat Book 20, Page 64, Public Records of Palm
Beach County, Florida, described as follows: Beginning at the Southwest corner of said Lot 8, run thence Easterly along the South line of
Lot 8, a distance of 91.10 feet to a point in said line; run thence Northerly a [] (For full legal description, see attached)

was sold to:

TOWN OF PALM BEACH

c/o Jones, Foster, Johnston & Stubbs, P A

P.O. Box 3475

West Palm Beach, FL 33402

WITNESS my hand and seal of this Court on October 20, 20 10

Sharon R. Bock, Clerk & Comptroller, Palm Beach County

By: *Debra Concepcion*

Deputy Clerk



2010 OCT 20 PM 4:56
PALM BEACH COUNTY, FL
CIRCUIT CIVIL 1



That part of Lot 8, Ocean Terrace, according to the map or plat thereof as recorded in Plat Book 20, Page 64, Public Records of Palm Beach County, Florida, described as follows:

Beginning at the Southwest corner of said Lot 8, run thence Easterly along the South line of Lot 8, a distance of 91.10 feet to a point in said line; run thence Northerly at an angle of $81^{\circ} 05' 40''$ to the preceding course, said angle being measured from West to North to a point in the North line of Lot 8, run thence Westerly along the North line of Lot 8, around the Northwest corner of said Lot 8, and thence Southerly along the West line of said Lot 8 to the Point of Beginning.

Together with a non-exclusive easement running with the land over, across and upon the tract of land described and bounded as follows:

Bounded on the North by the Easterly projection of the South line of Angler Avenue, on the South by a line parallel to and 63.77 feet South of (measured at right angles) to the Easterly projection of the South line of Angler Avenue; on the West by Ocean Boulevard and on the East by the Atlantic Ocean.

The Subject Property has a street address of 110 Angler Avenue, Palm Beach, Florida 33480.

Parcel Control Number: 50-43-43-03-000-0082

Offer to Purchase 110 Angler Avenue
Randolph, John C.

to:

PElwell@townofpalmbeach.com

05/04/2011 03:37 PM

Cc:

"CKleen@Townofpalmbeach.com"

Show Details

Peter,

Subsequent to my memo of today's date, we received the attached Agreement for Purchase and Sale (Cambo) which we provide for the information of the Mayor and Town Council. This offer rescinds a previous offer made by Cambo, dated April 28, 2011, copy attached.

Additionally, I have attached a previous offer (Cummings) which has expired, but which requires the Town to give marketable record title. Subsequent to the receipt of this offer, our office had discussions with the prospective purchaser who was not interested in pursuing a purchase other than in the manner presented.

Please provide this information to the Mayor and Town Council as an addendum to my memo of today's date.

Thank you

JOHN C. RANDOLPH

John C. Randolph

Attorney

Direct: 561-650-0458

Fax: 561-650-0465

jrandolph@jones-foster.com

Jones, Foster, Johnston & Stubbs, P.A.

Attorneys & Counselors

505 South Flagler Drive, Suite 1100, West Palm Beach, FL 33401

Telephone: 561-659-3000

[Website](#)

U.S. Treasury Regulation Circular 230 requires us to advise you that written communications issued by us are not intended to be and cannot be relied upon to avoid penalties that may be imposed by the Internal Revenue Service.

Incoming emails are filtered which may delay receipt. This email is personal to the named recipient(s) and may be privileged and confidential. If you are not the intended recipient, you received this in error. If so, any review, dissemination, or copying of this email is prohibited. Please immediately notify us by email and delete the original message.

AGREEMENT FOR PURCHASE AND SALE

The parties hereto hereby enter into this AGREEMENT FOR PURCHASE AND SALE (the "Contract") as a contract for the Purchase and Sale by and between TOWN OF PALM BEACH, a Florida municipality ("Seller") and PHILIP CAMBO. and/or Assigns ("Buyer") dated of May 4, 2011 (the "Contract"). The parties hereby agree as follows:

WHEREAS, Seller wishes to sell Parcel Control Number 50-43-43-03-03-000-0082 in Palm Beach County, Florida, having a commonly known address of 110 Angler Avenue, Palm Beach, Ocean Terrace Subdivision, State of Florida; and

WHEREAS, Buyer agrees to purchase the Subject Property and Seller agrees to sell the Subject Property according to the terms and conditions set forth in this Agreement

THEREFORE, for and in consideration of TEN DOLLARS (\$10.00), and other good and valuable consideration, the receipt of which is hereby acknowledged by each party hereto from the other party, and a hereinafter receipted deposit, and in consideration of mutual covenants and conditions and premises herein contained, the parties agree as follows:

- 1) Seller agrees to sell to Buyer and Buyer agrees to purchase from Seller, the Subject Property on the terms and conditions herein set forth.
- 2) As and for the purchase price for the Subject Property, the Buyer agrees to pay the sum of TWO HUNDRED TWENTY FIVE THOUSAND DOLLARS (\$225,000), and the Seller agrees to accept the allocations of those sums as follows:
 - a. The sum of FIVE THOUSAND DOLLARS (\$5,000), as the initial deposit payable on the execution of this Agreement, which sum shall be a part of the aforementioned Purchase Price and which sums shall be paid to and retained in escrow by the law firm of Law Offices of Daren Rubinfeld, P.A. ("Escrow Agent") pursuant to the terms and conditions of this Agreement. The Escrow Agent is hereby authorized and directed to place the Deposit into its non-interest

bearing Trust Account in a national bank or state or federal savings and loan association doing business in the State of Florida. Except in the case of a default of Seller (in which event, Buyer would be entitled to receive the return of the Deposit) and unless otherwise specifically provided herein, the Deposit shall be applied as part of the purchase price upon a Closing pursuant to this Agreement having occurred.

- b. Upon acceptance and approval by the TOWN OF PALM BEACH, at a publically held and properly noticed meeting, Buyer shall deposit with ESCROW AGENT an additional FIFTY THOUSAND DOLLARS (\$45,000) which together with the initial deposit shall become the deposit.
- c. At Closing, the Buyer shall pay to the TOWN OF PALM BEACH, the total sum of ONE HUNDRED SEVENTY FIVE THOUSAND DOLLARS (\$175,000), inclusive of deposit, as the purchase price, in the form of a cashier's check or readily available wired funds, which shall be the aforementioned Purchase Price. Buyer agrees to wire funds for closing to the ESCROW AGENT twenty four (24) hours prior to the scheduled closing. SELLER agrees to accept this sum as the total allocation of purchase price for the property, subject to any pro-rations or adjustments as provided for in this agreement.
- d. At Closing the Buyer shall deposit with the firm JONES FOSTER JOHNSTON & STUBBS ("JFJS"), the sum of FIFTY THOUSAND DOLLARS (\$50,000) to be retained by the firm under a separately signed retainer agreement for the purpose of obtaining carrying out legal services in the form of a quiet title or other action requested by BUYER in furtherance of obtaining title insurance on the property at some future date. If such funds are not applied to services performed within One Year of Closing, then such funds shall be returned in accordance with the retainer agreement.

- 3) Buyer's, at Buyer's expense, may purchase a commitment for the issuance of an ALTA Form "B" Marketability Owners Title Insurance Policy. The issuance of such policy or the purchase of such policy shall not be a condition precedent to closing. However:
- a. Seller shall supply, at closing, such affidavit and other documentation as is normal and customary to cause the standard printed exception for parties in possession to be deleted; and
 - b. Seller shall supply, at closing, such affidavit and other documentation as is normal and customary so as to permit the standard printed exception for mechanics' liens to be deleted; and
- 4) Seller hereby grants to Buyer and Buyer's agents, employees, servants, and contractors, the right to go upon the Subject Property and make such tests and investigations and do such things as Buyer shall deem necessary or appropriate including, but not limited to, surveying of the Subject Property, and tests and investigations to determine BUYERS contemplated renovations upon the property improvements. However, Buyer is an "AS-IS" purchaser of the Real Property which is the subject matter of this agreement, subject only to Sellers covenant to keep the Real Property in the same material condition until closing.
- 5) Seller has or will, within five (5) days from the Effective Date of the Contract, deliver to Buyer true and correct and complete copies of all reasonably available information in its possession (whether in draft or final form and recorded or unrecorded) concerning the Property. At Closing, Seller shall assign to Buyer all of Seller's right, title, interest and in and to and under any of such Property Information.
- 6) For purposes of this Agreement the term "Property" shall mean and refer to parcel sell Parcel Control Number 50-43-43-03-000-0082 in Palm Beach County, Florida, having

a commonly known address of 110 Anger Avenue, Palm Beach, Ocean Terrace
Subdivision, State of Florida

- 7) Seller asserts that Seller is the owner of all right, title and interest in and to the Property.
- 8) The conveyance of the Subject Property by Seller to Buyer shall be by warranty deed in substantially the form as is customarily used in the State of Florida.
- 9) The Closing of this transaction shall take place no later than Thirty (30) days after the approval by the TOWN OF PALM BEACH at the meeting referenced in paragraph 2(b) of this agreement.
- 10) The parties agree that the following shall be the schedule of obligations with respect to the Closing expenses hereunder, to wit:
 - a. Seller shall pay for the State documentary stamps on the Warranty Deed.
 - b. Buyer shall pay for the recording of the Warranty Deed.
 - c. Subject to other provisions of this Agreement to the contrary, all expenses and revenues of the Subject Property including, but not limited to, real property taxes, shall be prorated or credited, as the case may be, to the day of Closing. All real property taxes shall be based upon the current year's tax at the highest allowable discount. If the Closing occurs on a date when the current year's taxes are not fixed, and the current year's assessment is available, taxes will be prorated based upon such assessment, and the prior year's millage. If the current year's assessment is not available, then taxes will be prorated based upon the prior year's tax. In any event, such taxes shall be prorated at the highest allowable discount.

- d. All prorations and adjustments shall be against the cash to be paid by Buyer to Seller at Closing.

11) Possession of the Subject Property shall be delivered by Seller to Buyer at Closing.

12) In the event of the commencement of any condemnation or eminent domain proceedings for any public or quasi-public purpose at any time during the contract period, but prior to the Closing hereunder, which results or could result in the taking of any part or all of the Subject Property, Buyer shall have the option of: (i) cancelling this Agreement, in which event the Deposit and all sums paid pursuant hereto shall be forthwith returned by the holder thereof to Buyer and upon such repayment, this Agreement shall be null, void, and of no further force or effect and all parties hereto shall be released and relieved from any and all further liability or obligations hereunder; or (ii) closing the transaction contemplated by this Agreement, in which event the Purchase Price shall not be abated, provided, however, that Seller shall assign any condemnation or eminent domain award and its right to receive such award to Buyer. Seller agrees not to enter into any settlement of any condemnation proceedings or eminent domain proceedings without the prior written consent of Buyer.

13) BUYER hereby rescinds any previous offer for the subject property and specifically that offer dated April 28, 2011.

14) In the event of a default by Buyer under this Agreement, except for Seller's right to be indemnified by Buyer as set forth in this Agreement, Seller and Buyer shall have as their sole remedy the right to receive the Deposit as liquidated damages in full settlement of any claims and shall have no other or further liability hereunder.

15) Notwithstanding anything contained in this Agreement to the contrary, the law firm of Law Offices of Daren Rubinfeld, P.A., shall not be precluded from representing Buyer (or any other of the law firm's clients) by virtue of the firm acting as Escrow Agent hereunder.

16) In connection with any litigation arising out of this Agreement, each party shall Pay their own costs incurred, including, but not limited to, attorneys' fees, which attorneys' fees shall include, but not be limited to, those attorneys' fees incurred by such party for the services of its attorney(s) at all trial and appellate levels and post judgment proceedings.

17) Unless otherwise specifically provided herein, all notices to be given hereunder shall be in writing and sent to the parties as hereinafter provided, certified mail, return receipt requested, postage prepaid. Unless otherwise specifically provided herein, such notices shall be effective on the day such notice is deposited in the United States mails.

Notices to Seller shall be sent to:

TOWN OF PALM BEACH
c/o Larry B. Alexander, Esq.
505 South Flagler Drive #1100
West Palm Beach, FL 33401-5950

Notices to Buyer shall be sent to:

Philip Cambo
1290 Park Street
Palmer, MA 01069

and a copy to:

Daren Rubinfeld, Esq.
P.O. Box 30635
Palm Beach Gardens, Florida 33420
Fax: 561-658-2367

Notices as to Escrow Agent shall be sent to:

Daren Rubinfeld, Esq.
P.O. Box 30635
Palm Beach Gardens, Florida 33420
Email: daren.rubinfeld@gmail.com

The place to which any party hereto is entitled to receive any notice may be changed by such party by giving notice thereof in accordance with the foregoing provision.

- 18) Each party hereto represents and warrants unto the other party that there are no real estate brokers involved with respect to this transaction and that there are no brokerage fees, finder's fees or broker's commissions due as a result of their respective executions of this Agreement or which will be due as a result of the Closing as contemplated hereby by virtue of their respective acts, inactions, conduct, or otherwise. Notwithstanding the foregoing, Buyer shall pay a commission to LESLIE LINDER, a licensed real estate broker, p.o.c.
- 19) This instrument shall be governed by and enforced and construed under the laws of the State of Florida.
- 20) The Buyer named herein shall have the absolute right and power to assign its interest in this Agreement and Seller agrees that upon any such assignment, the assignee shall be deemed to be the Buyer under this Agreement and Seller shall close this transaction with such assignee. The Buyer named herein shall remain obligor for purposes of the agreement and the deposits being held.
- 21) In addition to the obligations required to be performed hereunder by Seller at the Closing, Seller agrees to perform such other acts, and to execute, acknowledge, and/or deliver subsequent to the Closing such other instruments, documents, and other materials as Buyer may reasonably request in order to effectuate the consummation of the transaction contemplated herein and to vest title to the Property in Buyer.
- 22) All captions or titles of Paragraphs used in this Agreement are for convenience only and are not intended to construe, limit, define, or describe the scope or intent of any Paragraph of this Agreement nor in any way to affect this Agreement.

23) Whenever the context so requires or admits, any pronoun used herein may be deemed to mean the corresponding masculine, feminine, or neuter form thereof and the singular form of any nouns and pronouns herein may be deemed to mean the corresponding plural form thereof and vice versa.

24) If any term, covenant, or condition of this Agreement for Purchase and Sale to any extent is deemed invalid or unenforceable, the remainder of the Agreement, or the application of such term, covenant or condition to Buyer's circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant, or condition of this Agreement shall be valid and enforced to the fullest extent permitted by law.

IN WITNESS WHEREOF, the parties hereto have executed the Contract as of the day and year above written.

"BUYER"



PHILIP CAMBO, AND/OR ASSIGNS

"SELLER"

TOWN OF PALM BEACH, a Florida
municipality

By: _____

Print Name: _____

Title: _____

Barclay's International Realty Inc.
245 Peruvian Avenue
Palm Beach, FL 33480-9935
Phone: 561-659-0000, Fax: 561-659-5446

"AS IS" Residential Contract For Sale And Purchase
THIS FORM HAS BEEN APPROVED BY THE FLORIDA REALTORS AND THE FLORIDA BAR

1 PARTIES:

PAIM BEACH

2 ("Seller"), and

PHIL CAMBON

3 ("Buyer"), agree that Seller shall sell and Buyer shall buy the following described Real Property and Personal Property (collectively
4 "Property") pursuant to the terms and conditions of this AS IS Residential Contract For Sale And Purchase and any riders and
5 addenda ("Contract"):

6 1. PROPERTY DESCRIPTION:

7* (a) Street address, city, zip: 110 ANGLER AVENUE, PALM BEACH, FLORIDA 33480

8* (b) Property is located in: PALM BEACH County, Florida. Real Property Tax ID No: 50-43-43-03-000-008

9* (c) Legal description of the Real Property:
OCEAN TERRACE W 90 FT OF LT 8

10 together with all existing improvements and fixtures, including built-in appliances, built-in furnishings and attached wall-to-
11 wall carpeting and flooring ("Real Property") unless specifically excluded below.
12 (d) Personal Property: The following items owned by Seller and existing on the Property as of the date of the initial offer are
13 included in this purchase ("Personal Property"): (i) range(s)/oven(s), dishwasher(s), disposal, ceiling fan(s), intercom, light
14 fixtures, rods, draperies and other window treatments, garage door openers, and security gate and other access devices;
15 and (ii) those additional items checked below. If additional details are necessary, specify below. If left blank, the item
16 below is not included:

- | | | | |
|--|--|---|--|
| ☐ Refrigerator(s) | ☐ Smoke detector(s) | ☐ Pool barrier/fence | ☐ Storage shed |
| ☐ Microwave oven | ☐ Security system | ☐ Pool equipment | ☐ TV antenna/satellite dish |
| ☐ Washer | ☐ Window/air a/c | ☐ Pool heater | ☐ Water softener/purifier |
| ☐ Dryer | ☐ Generator | ☐ Spa or hot tub with heater | ☐ Storm shutters and panels |
| ☐ Stand-alone ice maker | | ☐ Above ground pool | |

17 The only other items of Personal Property included in this purchase, and any additional details regarding Personal
18 Property, if necessary, are:
n/a

19 Personal Property is included in the Purchase Price, has no contributory value, and shall be left for the Buyer

20 (e) The following items are excluded from the purchase:

n/a

21* 2. PURCHASE PRICE (U.S. currency): \$ 850,000.00

22* (a) Initial deposit to be held in escrow in the amount of (checks subject to COLLECTION) \$ 50,000.00

23 The initial deposit made payable and delivered to "Escrow Agent" named below
24* (CHECK ONE): ☐ accompanies offer or ☒ is to be made upon acceptance (Effective Date)
25* or ☐ is to be made within n/a (if blank, then 3) days after Effective Date

26* Escrow Agent Information: Name: LESLIE EVANS, PA

27* Address: n/a Phone: n/a

28* E-mail: n/a Fax: n/a

29* (b) Additional deposit to be delivered to Escrow Agent within n/a (if blank, then 3)
30* days after Effective Date \$ n/a

31 (All deposits paid or agreed to be paid, are collectively referred to as the "Deposit") \$ n/a

32* (c) Financing: Express as a dollar amount or percentage ("Loan Amount") see Paragraph 8 \$ n/a

33* (d) Other: n/a \$ n/a

34 (e) Balance to close (not including Buyer's closing costs, prepaids and prorations) by wire transfer
35* or other COLLECTED funds \$ 800,000.00

36 NOTE: For the definition of "COLLECTION" or "COLLECTED" see STANDARD S.

37 3. TIME FOR ACCEPTANCE OF OFFER AND COUNTEROFFERS; EFFECTIVE DATE:

- 38* (a) If not signed by Buyer and Seller, and an executed copy delivered to all parties on or before 04/28/2011,
39 this offer shall be deemed withdrawn and the Deposit, if any, will be returned to Buyer. Unless otherwise stated, time for
40 acceptance of any counter-offers shall be within 2 days after the day the counter-offer is delivered.
41 (b) The effective date of this Contract will be the date when the last one of the Buyer and Seller has signed or initialed this
42 offer or final counter-offer ("Effective Date").
- 43 4. **CLOSING DATE:** Unless modified by other provisions of this Contract, the closing of this transaction shall occur and the
44 closing documents required to be furnished by each party pursuant to this Contract shall be delivered ("Closing") on
45 7 DAYS FROM TOWN COMMISSION ("Closing Date"), at the time established by the Closing Agent
- 46 5. **EXTENSION OF CLOSING DATE:**
47 (a) If Closing funds from Buyer's lender(s) are not available at time of Closing due to Truth in Lending Act (TILA) notice
48 requirements, Closing shall be extended for such period necessary to satisfy TILA notice requirements, not to exceed 7
49 days.
50 (b) If extreme weather or other condition or event constituting "Force Majeure" (see STANDARD G) causes: (i) disruption of
51 utilities or other services essential for Closing, or (ii) Hazard, Wind, Flood or Homeowners' insurance, to become
52 unavailable prior to Closing, Closing will be extended a reasonable time up to 3 days after restoration of utilities and other
53 services essential to Closing, and availability of applicable Hazard, Wind, Flood or Homeowners' insurance. If restoration
54 of such utilities or services and availability of insurance has not occurred within n/a (if left blank, 14) days after
55 Closing Date, then either party may terminate this Contract by delivering written notice to the other party, and Buyer shall be
56 refunded the Deposit, thereby releasing Buyer and Seller from all further obligations under this Contract.
- 57 6. **OCCUPANCY AND POSSESSION:** Unless otherwise stated herein, Seller shall, at Closing, have removed all personal items
58 and trash from the Property and shall deliver occupancy and possession, along with all keys, garage door openers, access
59 devices and codes, as applicable, to Buyer. If Property is intended to be rented or occupied beyond Closing, the fact and terms
60 thereof and the tenant(s) or occupants shall be disclosed pursuant to STANDARD D. If occupancy is to be delivered before
61 Closing, Buyer assumes all risks of loss to Property from date of occupancy, shall be responsible and liable for maintenance
62 from that date, and shall be deemed to have accepted Property in its existing condition as of time of taking occupancy.
- 63 7. **ASSIGNABILITY: (CHECK ONE)** Buyer ☐ may assign and thereby be released from any further liability under this Contract;
64 ☒ may assign but not be released from liability under this Contract; or ☐ may not assign this Contract.
- 65 **FINANCING**
66 8. **FINANCING:**
67 ☒ (a) Buyer will pay cash or may obtain a loan for the purchase of the Property. There is no financing contingency to Buyer's
68 obligation to close.
69 ☐ (b) This Contract is contingent upon Buyer obtaining a written loan commitment for a ☐ conventional ☐ FHA ☐ VA loan
70 on the following terms within n/a (if blank, then 30) days after Effective Date ("Loan Commitment Date") for:
71 **(CHECK ONE):** ☐ fixed, ☐ adjustable, ☐ fixed or adjustable rate loan in the principal amount of \$ n/a
72 or n/a % of the Purchase Price, at an initial interest rate not to exceed n/a % (if blank, then prevailing rate
73 based upon Buyer's creditworthiness), and for a term of n/a years ("Financing").
- 74 Buyer will make mortgage loan application for the Financing within n/a (if blank, then 5) days after Effective Date
75 and use good faith and diligent effort to obtain a written loan commitment for the Financing ("Loan Commitment") and
76 close this Contract. Buyer shall keep Seller and Broker fully informed about the status of mortgage loan application
77 and Loan Commitment and authorizes Buyer's mortgage broker and Buyer's lender to disclose such status and
78 progress to Seller and Broker.
- 79 If Buyer does not receive Loan Commitment, then Buyer may terminate this Contract by delivering written notice to
80 Seller, and the Deposit shall be refunded to Buyer, thereby releasing Buyer and Seller from all further obligations
81 under this Contract.
- 82 If Buyer does not deliver written notice to Seller of receipt of Loan Commitment or Buyer's written waiver of this
83 financing contingency, then after Loan Commitment Date Seller may terminate this Contract by delivering written
84 notice to Buyer and the Deposit shall be refunded to Buyer, thereby releasing Buyer and Seller from all further
85 obligations under this Contract.
- 86 If Buyer delivers written notice of receipt of Loan Commitment to Seller and this Contract does not thereafter close, the
87 Deposit shall be paid to Seller unless failure to close is due to: (1) Seller's default; (2) Property related conditions of the
88 Loan Commitment have not been met (except when such conditions are waived by other provisions of this Contract);
89 (3) appraisal of the Property obtained by Buyer's lender is insufficient to meet terms of the Loan Commitment; or (4)
90 the loan is not funded due to financial failure of Buyer's lender, in which event(s) the Deposit shall be returned to
91 Buyer, thereby releasing Buyer and Seller from all further obligations under this Contract.
- 92 ☐ (c) Assumption of existing mortgage (see rider for terms).
93 ☐ (d) Purchase money note and mortgage to Seller (see riders; addenda; or special clauses for terms).
- 94 **CLOSING COSTS, FEES AND CHARGES**
95 9. **CLOSING COSTS; TITLE INSURANCE; SURVEY; HOME WARRANTY; SPECIAL ASSESSMENTS:**
96 (a) **COSTS TO BE PAID BY SELLER:**
• Documentary stamp taxes and surtax on deed, if any
• Owner's Policy and Charges (If Paragraph 9(c)(i) is checked)
• Title search charges (if Paragraph 9(c)(iii) is checked)
• Other: n/a
• HOA/Condominium Association estoppel fees
• Recording and other fees needed to cure title
• Seller's attorneys' fees

PREPARED BY: Sandra Bogart, Realtor Associate

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If, prior to Closing, Seller is unable to meet the AS IS Maintenance Requirement as required by Paragraph 11 a sum equal to 125% of estimated cost to meet the AS IS Maintenance Requirement shall be escrowed at Closing. If actual costs to meet the AS IS Maintenance Requirement exceed escrowed amount, Seller shall pay such actual costs. Any unused portion of escrowed amount shall be returned to Seller.

(b) **COSTS TO BE PAID BY BUYER:**

- Taxes and recording fees on notes and mortgages
- Recording fees for deed and financing statements
- Owner's Policy and Charges (if Paragraph 9(c)(ii) is checked)
- Survey (and elevation certification, if required)
- Lender's title policy and endorsements
- HOA/Condominium Association application/transfer fees
- Other: n/a
- Loan expenses
- Appraisal fees
- Buyer's inspections
- Buyer's attorney's fees
- All property related insurance

(c) **TITLE EVIDENCE AND INSURANCE:** At least 10 (if blank, then 5) days prior to Closing Date, a title insurance commitment issued by a Florida licensed title insurer, with legible copies of instruments listed as exceptions attached thereto ("Title Commitment") and, after Closing, an owner's policy of title insurance (see STANDARD A for terms) shall be obtained and delivered to Buyer. If Seller has an owner's policy of title insurance covering the Real Property, a copy shall be furnished to Buyer and Closing Agent within 5 days after Effective Date. The owner's title policy premium and charges for owner's policy endorsements, title search, and closing services (collectively, "Owner's Policy and Charges") shall be paid, as set forth below

(CHECK ONE):

- ☐ (i) Seller will designate Closing Agent and pay for Owner's Policy and Charges (but not including charges for closing services related to Buyer's lender's policy and endorsements and loan closing, which amounts shall be paid by Buyer to Closing Agent or such other provider(s) as Buyer may select); or
- ☒ (ii) Buyer will designate Closing Agent and pay for Owner's Policy and Charges and charges for closing services related to Buyer's lender's policy, endorsements, and loan closing; or
- ☐ (iii) **[MIAMI-DADE/BROWARD REGIONAL PROVISION]:** Seller will furnish a copy of a prior owner's policy of title insurance or other evidence of title and pay fees for: (A) a continuation or update of such title evidence, which is acceptable to Buyer's title insurance underwriter for reissue of coverage; (B) tax search; and (C) municipal lien search. Buyer shall obtain and pay for post-Closing continuation and premium for Buyer's owner's policy, and if applicable, Buyer's lender's policy. Seller shall not be obligated to pay more than \$ n/a (if blank, \$200.00) for abstract continuation or title search ordered or performed by Closing Agent.

(d) **SURVEY:** At least 5 days prior to Closing, Buyer may, at Buyer's expense, have the Real Property surveyed and certified by a registered Florida surveyor ("Survey"). If Seller has a survey covering the Real Property, a copy shall be furnished to Buyer and Closing Agent within 5 days after Effective Date.

(e) **HOME WARRANTY:** At Closing, ☐ Buyer ☐ Seller ☒ N/A will pay for a home warranty plan issued by n/a at a cost not to exceed \$ n/a. A home warranty plan provides for repair or replacement of many of a home's mechanical systems and major built-in appliances in the event of breakdown due to normal wear and tear during the agreement's warranty period.

(f) **SPECIAL ASSESSMENTS:** At Closing, Seller will pay: (i) the full amount of liens imposed by a public body ("public body" does not include a Condominium or Homeowner's Association) that are certified, confirmed and ratified before Closing; and (ii) the amount of the public body's most recent estimate or assessment for an improvement which is substantially complete as of Effective Date, but that has not resulted in a lien being imposed on the Property before Closing. Buyer will pay all other assessments. If special assessments may be paid in installments **(CHECK ONE):**

- ☐ (a) Seller shall pay installments due prior to Closing and Buyer shall pay installments due after Closing. Installments prepaid or due for the year of Closing shall be prorated.
- ☐ (b) Seller shall pay the assessment(s) in full prior to or at the time of Closing.

IF NEITHER BOX IS CHECKED, THEN OPTION (a) SHALL BE DEEMED SELECTED.
This Paragraph 9(f) shall not apply to a special benefit tax lien imposed by a community development district (CDD) pursuant to Chapter 180 F.S. which lien shall be treated as an ad valorem tax and prorated pursuant to STANDARD K.

DISCLOSURES

10. DISCLOSURES:

- (a) **RADON GAS:** Radon is a naturally occurring radioactive gas that, when it is accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department.
- (b) **PERMITS DISCLOSURE:** Except as may have been disclosed by Seller to Buyer in a written disclosure, Seller does not know of any improvements made to the Property which were made without required permits or made pursuant to permits which have not been properly closed.
- (c) **MOLD:** Mold is naturally occurring and may cause health risks or damage to property. If Buyer is concerned or desires additional information regarding mold, Buyer should contact an appropriate professional.
- (d) **FLOOD ZONE; ELEVATION CERTIFICATION:** Buyer is advised to verify by elevation certificate which flood zone the Property is in, whether flood insurance is required by Buyer's lender, and what restrictions apply to improving the Property and rebuilding in the event of casualty. If Property is in a "Special Flood Hazard Area" or "Coastal High Hazard Area" and finished floor elevation is below minimum flood elevation, Buyer may terminate this Contract by delivering written notice to Seller within 20 days after Effective Date, failing which Buyer accepts existing elevation of buildings and flood zone.

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- 155 designation of Property.
156 (e) **ENERGY BROCHURE:** Buyer acknowledges receipt of Florida Energy-Efficiency Rating Information Brochure required by
157 Section 553.886, F.S.
158 (f) **LEAD-BASED PAINT:** If Property includes pre-1978 residential housing, a lead-based paint rider is mandatory.
159 (g) **HOMEOWNERS' ASSOCIATION/COMMUNITY DISCLOSURE:** BUYER SHOULD NOT EXECUTE THIS CONTRACT
160 UNTIL BUYER HAS RECEIVED AND READ THE HOMEOWNERS' ASSOCIATION/COMMUNITY DISCLOSURE, IF
161 APPLICABLE.
162 (h) **PROPERTY TAX DISCLOSURE SUMMARY:** BUYER SHOULD NOT RELY ON THE SELLER'S CURRENT PROPERTY
163 TAXES AS THE AMOUNT OF PROPERTY TAXES THAT THE BUYER MAY BE OBLIGATED TO PAY IN THE YEAR
164 SUBSEQUENT TO PURCHASE. A CHANGE OF OWNERSHIP OR PROPERTY IMPROVEMENTS TRIGGERS
165 REASSESSMENTS OF THE PROPERTY THAT COULD RESULT IN HIGHER PROPERTY TAXES. IF YOU HAVE ANY
166 QUESTIONS CONCERNING VALUATION, CONTACT THE COUNTY PROPERTY APPRAISER'S OFFICE FOR
167 INFORMATION.
168 (i) **TAX WITHHOLDING:** If Seller is a "foreign person" as defined by the Foreign Investment in Real Property Tax Act
169 ("FIRPTA"), Buyer and Seller will comply with FIRPTA, which may require Seller to provide additional cash at Closing.
170 (j) **SELLER DISCLOSURE:** Seller knows of no facts materially affecting the value of the Real Property which are not readily
171 observable and which have not been disclosed to Buyer. Except as stated in the preceding sentence or otherwise
172 disclosed in writing: (1) Seller has received no written or verbal notice from any governmental entity or agency as to a
173 currently uncorrected building, environmental or safety code violation; and (2) Seller extends and intends no warranty and
174 makes no representation of any type, either express or implied, as to the physical condition or history of the Property.

175 **PROPERTY MAINTENANCE, CONDITION, INSPECTIONS AND EXAMINATIONS**

- 176 11. **PROPERTY MAINTENANCE:** Except for ordinary wear and tear and Casualty Loss, Seller shall maintain the Property,
177 including, but not limited to, lawn, shrubbery, and pool, in the condition existing as of Effective Date ("AS IS Maintenance
178 Requirement").
179 12. **PROPERTY INSPECTION; RIGHT TO CANCEL:**
180 (a) **PROPERTY INSPECTIONS AND RIGHT TO CANCEL:** Buyer shall have 15 (if blank, 15) days from Effective
181 Date ("Inspection Period") within which to have such inspections of the Property performed as Buyer shall desire
182 during the Inspection Period. If Buyer determines, in Buyer's sole discretion, that the Property is not acceptable
183 to Buyer, Buyer may terminate this Contract by delivering written notice of such election to Seller prior to
184 expiration of Inspection Period. If Buyer timely terminates this Contract, the Deposit paid shall be immediately
185 returned to Buyer, thereupon, Buyer and Seller shall be released of all further obligations under this Contract;
186 however, Buyer shall be responsible for prompt payment for such inspections, for repair of damage to, and
187 restoration of, the Property resulting from such inspections, and shall provide Seller with paid receipts for all work
188 done on the Property (the preceding provision shall survive termination of this Contract). Unless Buyer exercises
189 the right to terminate granted herein, Buyer accepts the physical condition of the Property and any violation of
190 governmental, building, environmental, and safety codes, restrictions, or requirements, but subject to Seller's
191 continuing AS IS Maintenance Requirement, and Buyer shall be responsible for any and all repairs and
192 improvements required by Buyer's lender.
193 (b) **WALK-THROUGH INSPECTION/RE-INSPECTION:** On the day prior to Closing Date, or on Closing Date prior to time of
194 Closing, as specified by Buyer, Buyer or Buyer's representative may perform a walk-through (and follow-up walk-through,
195 if necessary) inspection of the Property solely to confirm that all items of Personal Property are on the Property and to
196 verify that Seller has maintained the Property as required by the AS IS Maintenance Requirement and has met all other
197 contractual obligations.
198 (c) **SELLER ASSISTANCE AND COOPERATION IN CLOSE-OUT OF BUILDING PERMITS:** If Buyer's inspection of the
199 Property identifies open or needed building permits, then Seller shall promptly deliver to Buyer all plans, written
200 documentation or other information in Seller's possession, knowledge, or control relating to improvements to the Property
201 which are the subject of such open or needed Permits, and shall promptly cooperate in good faith with Buyer's efforts to
202 obtain estimates of repairs or other work necessary to resolve such Permit issues. Seller's obligation to cooperate shall
203 include Seller's execution of necessary authorizations, consents, or other documents necessary for Buyer to conduct
204 inspections and have estimates of such repairs or work prepared, but in fulfilling such obligation, Seller shall not be
205 required to expend, or become obligated to expend, any money.
206 (d) **ASSIGNMENT OF REPAIR AND TREATMENT CONTRACTS AND WARRANTIES:** At Buyer's option and cost, Seller will,
207 at Closing, assign all assignable repair, treatment and maintenance contracts and warranties to Buyer.

208 **ESCROW AGENT AND BROKER**

- 209 13. **ESCROW AGENT:** Any Closing Agent or Escrow Agent (collectively "Agent") receiving the Deposit, other funds and other
210 items is authorized, and agrees by acceptance of them, to deposit them promptly, hold same in escrow within the State of
211 Florida and, subject to COLLECTION, disburse them in accordance with terms and conditions of this Contract. Failure of
212 funds to become COLLECTED shall not excuse Buyer's performance. When conflicting demands for the Deposit are
213 received, or Agent has a good faith doubt as to entitlement to the Deposit, Agent may take such actions permitted by this
214 Paragraph 13, as Agent deems advisable. If in doubt as to Agent's duties or liabilities under this Contract, Agent may, at
215 Agent's option, continue to hold the subject matter of the escrow until the parties agree to its disbursement or until a final
216 judgment of a court of competent jurisdiction shall determine the rights of the parties, or Agent may deposit same with the
217 clerk of the circuit court having jurisdiction of the dispute. An attorney who represents a party and also acts as Agent may
218 represent such party in such action. Upon notifying all parties concerned of such action, all liability on the part of Agent shall
219 fully terminate, except to the extent of accounting for any items previously delivered out of escrow. If a licensed real estate
220 broker, Agent will comply with provisions of Chapter 475, F.S., as amended and FREC rules to timely resolve escrow disputes

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through mediation, arbitration, interpleader or an escrow disbursement order. Any proceeding between Buyer and Seller wherein Agent is made a party because of acting as Agent hereunder, or in any proceeding where Agent interpleads the subject matter of the escrow, Agent shall recover reasonable attorney's fees and costs incurred, to be paid pursuant to court order out of the escrowed funds or equivalent. Agent shall not be liable to any party or person for this delivery of any escrowed items, unless such mis-delivery is due to Agent's willful breach of this Contract or Agent's gross negligence. This Paragraph 13 shall survive Closing or termination of this Contract.

14. **PROFESSIONAL ADVICE; BROKER LIABILITY:** Broker advises Buyer and Seller to verify Property condition, square footage, and all other facts and representations made pursuant to this Contract and to consult appropriate professionals for legal, tax, environmental, and other specialized advice concerning matters affecting the Property and the transaction contemplated by this Contract. Broker represents to Buyer that Broker does not reside on the Property and that all representations (oral, written or otherwise) by Broker are based on Seller representations or public records. **BUYER AGREES TO RELY SOLELY ON SELLER, PROFESSIONAL INSPECTORS AND GOVERNMENTAL AGENCIES FOR VERIFICATION OF PROPERTY CONDITION, SQUARE FOOTAGE AND FACTS THAT MATERIALLY AFFECT PROPERTY VALUE AND NOT ON THE REPRESENTATIONS (ORAL, WRITTEN OR OTHERWISE) OF BROKER.** Buyer and Seller (individually, the "Indemnifying Party") each individually indemnifies, holds harmless, and releases Broker and Broker's officers, directors, agents and employees from all liability for loss or damage, including all costs and expenses, and reasonable attorney's fees at all levels, suffered or incurred by Broker and Broker's officers, directors, agents and employees in connection with or arising from claims, demands or causes of action instituted by Buyer or Seller based on: (i) inaccuracy of information provided by the Indemnifying Party or from public records; (ii) Indemnifying Party's misstatement(s) or failure to perform contractual obligations; (iii) Broker's performance, at Indemnifying Party's request, of any task beyond the scope of services regulated by Chapter 475, F.S., as amended, including Broker's referral, recommendation or retention of any vendor for, or on behalf of Indemnifying Party; (iv) products or services provided by any such vendor for, or on behalf of, Indemnifying Party; and (v) expenses incurred by any such vendor. Buyer and Seller each assume full responsibility for selecting and compensating their respective vendors and paying their other costs under this Contract whether or not this transaction closes. This Paragraph 14 will not relieve Broker of statutory obligations under Chapter 475, F.S., as amended. For purposes of this Paragraph 14, Broker will be treated as a party to this Contract. This Paragraph 14 shall survive Closing or termination of this Contract.

DEFAULT AND DISPUTE RESOLUTION

15. DEFAULT:

(a) **BUYER DEFAULT:** If Buyer fails, neglects or refuses to perform Buyer's obligations under this Contract, including payment of the Deposit, within the time(s) specified, Seller may elect to recover and retain the Deposit for the account of Seller as agreed upon liquidated damages, consideration for execution of this Contract, and in full settlement of any claims, whereupon Buyer and Seller shall be relieved from all further obligations under this Contract, or Seller, at Seller's option, may, pursuant to Paragraph 16, proceed in equity to enforce Seller's rights under this Contract. The portion of the Deposit, if any, paid to Listing Broker upon default by Buyer, shall be split equally between Listing Broker and Cooperating Broker, provided however, Cooperating Broker's share shall not be greater than the commission amount Listing Broker had agreed to pay to Cooperating Broker.

(b) **SELLER DEFAULT:** If for any reason other than failure of Seller to make Seller's title marketable after reasonable diligent effort, Seller fails, neglects or refuses to perform Seller's obligations under this Contract, Buyer may elect to receive return of Buyer's Deposit without thereby waiving any action for damages resulting from Seller's breach, and, pursuant to Paragraph 16, may seek to recover such damages or seek specific performance. This Paragraph 15 shall survive Closing or termination of this Contract.

16. **DISPUTE RESOLUTION:** Unresolved controversies, claims and other matters in question between Buyer and Seller arising out of, or relating to, this Contract or its breach, enforcement or interpretation ("Dispute") will be settled as follows:

(a) Buyer and Seller will have 10 days after the date conflicting demands for the Deposit are made to attempt to resolve such Dispute, failing which, Buyer and Seller shall submit such Dispute to mediation under Paragraph 16(b).

(b) Buyer and Seller shall attempt to settle Disputes in an amicable manner through mediation pursuant to Florida Rules for Certified and Court-Appointed Mediators and Chapter 44, F.S., as amended (the "Mediation Rules"). The mediator must be certified or must have experience in the real estate industry. Injunctive relief may be sought without first complying with this Paragraph 16(b). Disputes not settled pursuant to this Paragraph 16 may be resolved by instituting action in the appropriate court having jurisdiction of the matter. This Paragraph 16 shall survive Closing or termination of this Contract.

17. **ATTORNEY'S FEES; COSTS:** The parties will split equally any mediation fee incurred in any mediation permitted by this Contract, and each party will pay their own costs, expenses and fees, including attorney's fees incurred in conducting the mediation. In any litigation permitted by this Contract, the prevailing party shall be entitled to recover from the non-prevailing party costs and fees, including reasonable attorney's fees, incurred in conducting the litigation. This Paragraph 17 shall survive Closing or termination of this Contract.

STANDARDS FOR REAL ESTATE TRANSACTIONS ("STANDARDS")

18. STANDARDS:

A. TITLE:

(i) **TITLE EVIDENCE; RESTRICTIONS; EASEMENTS; LIMITATIONS:** Within the time period provided in Paragraph 9(c), the Title Commitment, with legible copies of instruments listed as exceptions attached thereto, shall be issued and delivered to Buyer. Title Commitment shall set forth those matters to be discharged by Seller at or before Closing and shall provide that, upon recording of the deed to Buyer, an owner's policy of title insurance in the amount of the Purchase Price, shall be issued to Buyer insuring Buyer's marketable title to the Real Property, subject only to the following matters: (a) comprehensive land use plans, zoning, and other land use restrictions, prohibitions and requirements imposed by governmental authority; (b) restrictions and matters appearing on the Plat or otherwise common to the subdivision; (c) outstanding oil, gas and mineral rights of record without right of entry; (d) unpletted public utility easements of record (located contiguous to real property lines and not more than 10 feet in

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Seller(s) _____

width as to rear or front lines and 7 1/2 feet in width as to side lines); (e) taxes for year of Closing and subsequent years; and (f) assumed mortgages and purchase money mortgages. If any (if additional items, attach addendum); provided, that, unless waived by Paragraph 12 (a), there exists at Closing no violation of the foregoing and none prevent use of the Property for **RESIDENTIAL PURPOSES**. If there exists at Closing any violation of items identified in (b) - (f) above, then the same shall be deemed a title defect. Marketable title shall be determined according to applicable Title Standards adopted by authority of The Florida Bar and in accordance with law.

(ii) **TITLE EXAMINATION:** Buyer shall have 5 days after receipt of Title Commitment to examine it and notify Seller in writing specifying defect(s), if any, that render title unmarketable. If Seller provides Title Commitment and it is delivered to Buyer less than 5 days prior to Closing Date, Buyer may extend Closing for up to 5 days after date of receipt to examine the same in accordance with this STANDARD A. Seller shall have 30 days ("Cure Period") after receipt of Buyer's notice to take reasonable diligent efforts to remove defects. If Buyer fails to so notify Seller, Buyer shall be deemed to have accepted title as it then is. If Seller cures defects within Cure Period, Seller will deliver written notice to Buyer (with singular shall include plural and one gender shall include all. Notice and delivery given by or to the attorney or broker representing any party shall be as proof of cure acceptable to Buyer and Buyer's attorney) and the parties will close this Contract on Closing Date (or if Closing Date has passed, within 10 days after Buyer's receipt of Seller's notice). If Seller is unable to cure defects within Cure Period, then Buyer may, within 5 days after expiration of Cure Period, deliver written notice to Seller: (a) extending Cure Period for a specified period not to exceed 120 days within which Seller shall continue to use reasonable diligent effort to remove or cure the defects ("Extended Cure Period"); or (b) electing to accept title with existing defects and close this Contract on Closing Date (or if Closing Date has passed, within the earlier of 10 days after end of Extended Cure Period or Buyer's receipt of Seller's notice), or (c) electing to terminate this Contract and receive a refund of the Deposit, thereby releasing Buyer and Seller from all further obligations under this Contract. If after reasonable diligent effort, Seller is unable to timely cure defects, and Buyer does not waive the defects, this Contract shall terminate, and Buyer shall receive a refund of the Deposit, thereby releasing Buyer and Seller from all further obligations under this Contract.

B. SURVEY: If Survey discloses encroachments on the Real Property or that improvements located thereon encroach on setback lines, easements, or lands of others; or violate any restrictions, covenants, or applicable governmental regulations described in STANDARD A (i)(a), (b) or (d) above, Buyer shall deliver written notice of such matters, together with a copy of Survey, to Seller within 5 days after Buyer's receipt of Survey, but no later than Closing. If Buyer timely delivers such notice and Survey to Seller, such matters identified in the notice and Survey shall constitute a title defect, subject to cure obligations of STANDARD A above. If Seller has delivered a prior survey, Seller shall, at Buyer's request, execute an affidavit of "no change" to the Real Property since the preparation of such prior survey, to the extent the affirmations therein are true and correct.

C. INGRESS AND EGRESS: Seller represents that there is ingress and egress to the Real Property and title to the Real Property is insurable in accordance with STANDARD A without exception for lack of legal right of access.

D. LEASES: Seller shall, within 5 days after Inspection Period, furnish to Buyer copies of all written leases and estoppel letters from each tenant specifying nature and duration of tenant's occupancy, rental rates, advanced rent and security deposits paid by tenant, and income and expense statements for preceding 12 months ("Lease Information"). If Seller is unable to obtain estoppel letters from tenant(s), the same information shall be furnished by Seller to Buyer within that time period in the form of a Seller's affidavit, and Buyer may thereafter contact tenant(s) to confirm such information. If terms of the lease(s) differ materially from Seller's representations, Buyer may deliver written notice to Seller within 5 days after receipt of Lease Information, but no later than 5 days prior to Closing Date, terminating this Contract and receive a refund of the Deposit, thereby releasing Buyer and Seller from all further obligations under this Contract. Seller shall, at Closing, deliver and assign all original leases to Buyer who shall assume Seller's obligation thereunder.

E. LIENS: Seller shall furnish to Buyer at Closing an affidavit attesting: (i) to the absence of any financing statement, claims of lien or potential liens known to Seller, and (ii) that there have been no improvements or repairs to the Real Property for 90 days immediately preceding Closing Date. If the Real Property has been improved or repaired within that time, Seller shall deliver releases or waivers of construction liens executed by all general contractors, subcontractors, suppliers and materialmen in addition to Seller's lien affidavit setting forth names of all such general contractors, subcontractors, suppliers and materialmen, further affirming that all charges for improvements or repairs which could serve as a basis for a construction lien or a claim for damages have been paid or will be paid at Closing.

F. TIME: Calendar days shall be used in computing time periods. Any time periods provided for in this Contract which shall end on a Saturday, Sunday, or a national legal holiday (see 5 U.S.C. 6103) shall extend to 8:00 p.m. (where the Property is located) of the next business day. Time is of the essence in this Contract.

G. FORCE MAJEURE: Buyer or Seller shall not be required to perform any obligation under this Contract or be liable to each other for damages so long as performance or non-performance of the obligation is delayed, caused or prevented by Force Majeure. "Force Majeure" means: hurricanes, earthquakes, floods, fire, acts of God, unusual transportation delays, wars, insurrections, acts of terrorism, and any other cause not reasonably within control of Buyer or Seller, and which, by exercise of reasonable diligent effort, the non-performing party is unable in whole or in part to prevent or overcome. All time periods, including Closing Date, will be extended for the period that the Force Majeure prevents performance under this Contract, provided, however, if such Force Majeure continues to prevent performance under this Contract more than 14 days beyond Closing Date, then either party may terminate this Contract by delivering written notice to the other and the Deposit shall be refunded to Buyer, thereby releasing Buyer and Seller from all further obligations under this Contract.

H. CONVEYANCE: Seller shall convey marketable title to the Real Property by statutory warranty, trustee's, personal representative's, or guardian's deed, as appropriate to the status of Seller, subject only to matters described in STANDARD A and those accepted by Buyer. Personal Property shall, at request of Buyer, be transferred by absolute bill of sale with warranty of title, subject only to such matters as may be provided for in this Contract.

I. CLOSING LOCATION; DOCUMENTS; AND PROCEDURE:

(i) **LOCATION:** Closing will take place in the county where the Real Property is located at the office of the attorney or other

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Buyer(s)

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359 closing agent ("Closing Agent") designated by the party paying for the owner's policy of title insurance, or, if no title insurance,
364 designated by Seller. Closing may be conducted by mail or electronic means.
365 (ii) **CLOSING DOCUMENTS:** At Closing, Seller shall furnish and pay for, as applicable, deed, bill of sale, certificate of title,
368 construction lien affidavit, owner's possession affidavit, assignments of leases, and corrective instruments. Seller shall provide
367 Buyer with paid receipts for all work done on the Property pursuant to this Contract. Buyer shall furnish and pay for, as applicable,
368 mortgage, mortgage note, security agreement, financing statements, survey, base elevation certification, and other documents
369 required by Buyer's lender.
370 (iii) **PROCEDURE:** The deed shall be recorded upon **COLLECTION** of all closing funds. If the Title Commitment provides
371 insurance against adverse matters pursuant to Section 627.7841, F.S., as amended, the escrow closing procedure required by
372 **STANDARD J** shall be waived, and Closing Agent shall, subject to **COLLECTION** of all closing funds, disburse at Closing the
373 brokerage fees to Broker and the net sale proceeds to Seller.
374 **J. ESCROW CLOSING PROCEDURE:** If Title Commitment Issued pursuant to Paragraph 9(c) does not provide for insurance
375 against adverse matters as permitted under Section 627.7841, F.S., as amended, the following escrow and closing procedures
376 shall apply: (1) all Closing proceeds shall be held in escrow by the Closing Agent for a period of not more than 10 days after
377 Closing; (2) if Seller's title is rendered unmarketable, through no fault of Buyer, Buyer shall, within the 10 day period, notify Seller in
378 writing of the defect and Seller shall have 30 days from date of receipt of such notification to cure the defect; (3) If Seller fails to
379 timely cure the defect, the Deposit and all Closing funds paid by Buyer shall, within 5 days after written demand by Buyer, be
380 refunded to Buyer and, simultaneously with such repayment, Buyer shall return the Personal Property, vacate the Real Property and
381 re-convey the Property to Seller by special warranty deed and bill of sale; and (4) if Buyer fails to make timely demand for refund of
382 the Deposit, Buyer shall take title as is, waiving all rights against Seller as to any intervening defect except as may be available to
383 Buyer by virtue of warranties contained in the deed or bill of sale.
384 **K. PRORATIONS; CREDITS:** The following recurring items will be made current (if applicable) and prorated as of the day prior to
385 Closing Date, or date of occupancy if occupancy occurs before Closing Date: real estate taxes (including special benefit tax
386 assessments imposed by a CDD), interest, bonds, association fees, insurance, rents and other expenses of Property. Buyer shall
387 have option of taking over existing policies of insurance, if assumable, in which event premiums shall be prorated. Cash at Closing
388 shall be increased or decreased as may be required by prorations to be made through day prior to Closing. Advance rent and
389 security deposits, if any, will be credited to Buyer. Escrow deposits held by Seller's mortgagee will be paid to Seller. Taxes shall be
390 prorated based on current year's tax with due allowance made for maximum allowable discount, homestead and other exemptions.
391 If Closing occurs on a date when current year's millage is not fixed but current year's assessment is available, taxes will be prorated
392 based upon such assessment and prior year's millage. If current year's assessment is not available, then taxes will be prorated on
393 prior year's tax. If there are completed improvements on the Real Property by January 1st of year of Closing, which improvements
394 were not in existence on January 1st of prior year, then taxes shall be prorated based upon prior year's millage and at an equitable
395 assessment to be agreed upon between the parties, failing which, request shall be made to the County Property Appraiser for an
396 informal assessment taking into account available exemptions. A tax proration based on an estimate shall, at either party's request,
397 be readjusted upon receipt of current year's tax bill. This **STANDARD K** shall survive Closing.
398 **L. ACCESS TO PROPERTY TO CONDUCT APPRAISALS, INSPECTIONS, AND WALK-THROUGH:** Seller shall, upon
399 reasonable notice, provide utilities service and access to Property for appraisals and inspections, including a walk-through (or
400 follow-up walk-through if necessary) prior to Closing.
401 **M. RISK OF LOSS:** If, after Effective Date, but before Closing, Property is damaged by fire or other casualty ("Casualty Loss")
402 and cost of restoration (which shall include cost of pruning or removing damaged trees) does not exceed 1.5% of Purchase Price,
403 cost of restoration shall be an obligation of Seller and Closing shall proceed pursuant to terms of this Contract. If restoration is not
404 completed as of Closing, a sum equal to 125% of estimated cost to complete restoration (not to exceed 1.5% of Purchase Price),
405 will be escrowed at Closing. If actual cost of restoration exceeds escrowed amount, Seller shall pay such actual costs (but, not in
406 excess of 1.5% of Purchase Price). Any unused portion of escrowed amount shall be returned to Seller. If cost of restoration
407 exceeds 1.5% of Purchase Price, Buyer shall elect to either take Property "as is" together with the 1.5%, or receive a refund of the
408 Deposit, thereby releasing Buyer and Seller from all further obligations under this Contract. Seller's sole obligation with respect to
409 tree damage by casualty or other natural occurrence shall be cost of pruning or removal.
410 **N. 1031 EXCHANGE:** If either Seller or Buyer wish to enter into a like-kind exchange (either simultaneous with Closing or
411 deferred) under Section 1031 of the Internal Revenue Code ("Exchange"), the other party shall cooperate in all reasonable respects
412 to effectuate the Exchange, including execution of documents; provided, however, cooperating party shall incur no liability or
413 expense related to the Exchange, and Closing shall not be contingent upon, nor extended or delayed by, such Exchange.
414 **O. CONTRACT NOT RECORDABLE; PERSONS BOUND; NOTICE; COPIES:** Neither this Contract nor any notice of it shall be
415 recorded in any public records. This Contract shall be binding on, and inure to the benefit of, the parties and their respective heirs
416 or successors in interest. Whenever the context permits, singular shall include plural and one gender shall include all. Notice and
417 delivery given by or to the attorney or broker (including such broker's real estate licensee) representing any party shall be as
418 effective as if given by or to that party. All notices must be in writing and may be made by mail, personal delivery or electronic
419 (including "pdf") media. A legible facsimile or electronic (including "pdf") copy of this Contract and any signatures hereon shall be
420 considered for all purposes as an original.
421 **P. INTEGRATION; MODIFICATION:** This Contract contains the full and complete understanding and agreement of Buyer and
422 Seller with respect to the transaction contemplated by this Contract and no prior agreements or representations shall be binding
423 upon Buyer or Seller unless included in this Contract. No modification to or change in this Contract shall be valid or binding upon
424 Buyer or Seller unless in writing and executed by the parties intended to be bound by it.
425 **Q. WAIVER:** Failure of Buyer or Seller to insist on compliance with, or strict performance of, any provision of this Contract, or to
426 take advantage of any right under this Contract, shall not constitute a waiver of other provisions or rights.
427 **R. RIDERS; ADDENDA; TYPEWRITTEN OR HANDWRITTEN PROVISIONS:** Riders, addenda, and typewritten or handwritten
428 provisions shall control all printed provisions of this Contract in conflict with them.

PREPARED BY: Sandra Bogart, Realtor Associate

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420 S. COLLECTION or COLLECTED: "COLLECTION" or "COLLECTED" means any checks tendered or received, including
421 Deposits, have become actually and finally collected and deposited in the account of Escrow Agent or Closing Agent.
422 Closing and disbursement of funds and delivery of Closing documents may be delayed by Closing Agent until such
423 amounts have been COLLECTED in Closing Agent's accounts.
424 T. LOAN COMMITMENT: "Loan Commitment" means a statement by the lender setting forth the terms and conditions upon
425 which the lender is willing to make a particular mortgage loan to a particular borrower.
426 U. APPLICABLE LAW AND VENUE: This Contract shall be construed in accordance with the laws of the State of Florida and
427 venue for resolution of all disputes, whether by mediation, arbitration or litigation, shall lie in the county in which the Real Property
428 is located.
429 X. BUYER WAIVER OF CLAIMS: Buyer waives any claims against Seller and, to the extent permitted by law, against any
430 real estate licensee involved in the negotiation of this Contract, for any defects or other damage that may exist at Closing
431 of this Contract and be subsequently discovered by the Buyer or anyone claiming by, through, under or against the
432 Buyer.

ADDENDA AND ADDITIONAL TERMS

433
434 19. ADDENDA: The following additional terms are included in the attached addenda and incorporated into this Contract (Check if
435 applicable):

- | | | | |
|--|---|--|--|
| ☐ A. Condominium Assn. | ☐ L. RESERVED | ☐ R. Rezoning | ☐ Y. Seller's Attorney |
| ☐ B. Homeowners' Assn. | | ☐ S. Lease Purchase/ | ☐ Approval |
| ☐ C. Seller Financing | ☐ M. Defective Drywall | Lease Option | Buyer's Attorney |
| ☐ D. Mortgage Assumption | ☐ N. Coastal Construction | ☐ T. Pre-Closing | ☐ Approval |
| ☐ E. FHA/VA Financing | Control Line | Occupancy | ☐ AA. Licensee Personal |
| ☐ F. Appraisal Contingency | ☐ O. Insulation Disclosure | ☐ U. Post-Closing | Interest In Property |
| ☐ G. Short Sale | ☐ P. Pre-1978 Housing | Occupancy | ☐ BB. Binding Arbitration |
| ☐ H. Homeowners' Insurance | Statement (Lead | ☐ V. Sale of Buyer's | ☐ Other |
| ☐ I. FIRPTA | Based Paint) | Property | n/a |
| ☐ J. Interest-Bearing Acct. | ☐ Q. Housing for Older | ☐ W. Back-up Contract | n/a |
| ☐ K. RESERVED | Persons | ☐ X. Kick-out Clause | n/a |

436 20. ADDITIONAL TERMS:

BUYER AGREES TO PAY ALL TITLE AND DOC STAMP COSTS FOR CLOSING AS WELL AS 3% COMMISSION TO BARCLAYS
INTERNATIONAL REALTY, INC IN EXCHANGE FOR PROPERTY WITH CLEAR TITLE

COUNTER-OFFER/REJECTION

437
438 ☐ Seller counters Buyer's offer (to accept the counter-offer. Buyer must sign or initial the counter-offered terms and deliver a
439 copy of the acceptance to Seller).
440 ☐ Seller rejects Buyer's offer.

441 THIS IS INTENDED TO BE A LEGALLY BINDING CONTRACT. IF NOT FULLY UNDERSTOOD, SEEK THE ADVICE OF AN
442 ATTORNEY PRIOR TO SIGNING.

443 THIS FORM HAS BEEN APPROVED BY THE FLORIDA REALTORS AND THE FLORIDA BAR.

444 Approval of this form by the Florida Realtors and The Florida Bar does not constitute an opinion that any of the terms and
445 conditions in this Contract should be accepted by the parties in a particular transaction. Terms and conditions should be negotiated
446 based upon the respective interests, objectives and bargaining positions of all interested persons.

447 AN ASTERISK (*) FOLLOWING A LINE NUMBER IN THE MARGIN INDICATES THE LINE CONTAINS A BLANK TO BE
448 COMPLETED

BUYER Philip Guevara DATE 7-28-11
PHIL GUEVARA
CAMBO

SELLER _____ DATE _____
PALM BEACH

449 Buyer's address for purposes of notice

450* n/a

461* n/a

452* n/a

Seller's address for purposes of notice

n/a

n/a

n/a

PREPARED BY: Sandra Bogart, Realtor Associate

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453 **BROKER:** Listing and Cooperating Brokers, if any, named below (collectively, "Broker"), are the only Brokers entitled to
454 compensation in connection with this Contract. Instruction to Closing Agent: Seller and Buyer direct Closing Agent to disburse at
455 Closing the full amount of the brokerage fees as specified in separate brokerage agreements with the parties and cooperative
456 agreements between the Brokers, except to the extent Broker has retained such fees from the escrowed funds. This Contract shall
457 not modify any MLS or other offer of compensation made by Seller or Listing Broker to Cooperating Brokers.

458 LESLIE M HOLVEN-LINDER 34

n/a

459 Cooperating Sales Associate, if any

Listing Sales Associate

460 BARCLAYS INTERNATIONAL REALTY

n/a

461 Cooperating Broker, if any

Listing Broker

PREPARED BY: Sandra Begart, Realtor Associate

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Seller(s) _____

Sotheby's International Realty
340 Royal Poinciana Way
Suite 337
Palm Beach, FL 33480
Phone: 561-659-3555, Fax: 561-655-2359

"AS IS" Residential Contract For Sale And Purchase

THIS FORM HAS BEEN APPROVED BY THE FLORIDA REALTORS AND THE FLORIDA BAR

1 PARTIES:

Town of Palm Beach

2 ("Seller"), and

Anthony F. Cummings

3 ("Buyer"), agree that Seller shall sell and Buyer shall buy the following described Real Property and Personal Property (collectively
4 "Property") pursuant to the terms and conditions of this AS IS Residential Contract For Sale And Purchase and any riders and
5 addenda ("Contract"):

6 1. PROPERTY DESCRIPTION:

7* (a) Street address, city, zip: 110 Angler Ave., Palm Beach, FL 33480

8* (b) Property is located in: Palm Beach County, Florida. Real Property Tax ID No: 50-43-43-03-000-0082

9* (c) Legal description of the Real Property: OCEAN TERRACE W 90 FT OF LT 8

10 together with all existing improvements and fixtures, including built-in appliances, built-in furnishings and attached wall-to-
11 wall carpeting and flooring ("Real Property") unless specifically excluded below.

12 (d) Personal Property: The following items owned by Seller and existing on the Property as of the date of the initial offer are
13 included in the purchase ("Personal Property"): (i) range(s)/oven(s), dishwasher(s), disposal, ceiling fan(s), intercom, light
14 fixtures, rods, draperies and other window treatments, garage door openers, and security gate and other access devices;
15 and (ii) those additional items checked below. If additional details are necessary, specify below. If left blank, the item
16 below is not included:

☐ Refrigerator(s)
☐ Microwave oven
☐ Washer
☐ Dryer
☐ Stand-alone ice maker

☐ Smoke detector(s)
☐ Security system
☐ Window/wall a/c
☐ Generator

☐ Pool barrier/fence
☐ Pool equipment
☐ Pool heater
☐ Spa or hot tub with heater
☐ Above ground pool

☐ Storage shed
☐ TV antenna/satellite dish
☐ Water softener/purifier
☐ Storm shutters and panels

17 The only other items of Personal Property included in this purchase, and any additional details regarding Personal
18 Property, if necessary, are:

19 Personal Property is included in the Purchase Price, has no contributory value, and shall be left for the Buyer.

20 (e) The following items are excluded from the purchase:

21* 2. PURCHASE PRICE (U.S. currency): \$ 950,000.00

22* (a) Initial deposit to be held in escrow in the amount of (checks subject to COLLECTION) \$ 5,000.00

23 The initial deposit made payable and delivered to "Escrow Agent" named below
24* (CHECK ONE): ☐ accompanies offer or ☐ is to be made upon acceptance (Effective Date)
25* or ☒ is to be made within 3 (If blank, then 3) days after Effective Date

26* Escrow Agent Information: Name: Sotheby's International Realty

27* Address: 340 Royal Poinciana Way, Suite 337 Phone: (561)659-3555

28* E-mail: Fax: (561)584-5019

29* (b) Additional deposit to be delivered to Escrow Agent within 20 (if blank, then 3)
30* days after Effective Date \$ 90,000.00

31 (All deposits paid or agreed to be paid, are collectively referred to as the "Deposit")

32* (c) Financing: Express as a dollar amount or percentage ("Loan Amount") see Paragraph 8 \$

33* (d) Other: \$

34 (e) Balance to close (not including Buyer's closing costs, prepaids and prorations) by wire transfer
35* or other COLLECTED funds \$ 855,000.00

36 NOTE: For the definition of "COLLECTION" or "COLLECTED" see STANDARD S.

37 3. TIME FOR ACCEPTANCE OF OFFER AND COUNTEROFFERS; EFFECTIVE DATE:

- 38* (a) If not signed by Buyer and Seller, and an executed copy delivered to all parties on or before 5:00 pm EST, April 8th, 2011,
39 this offer shall be deemed withdrawn and the Deposit, if any, will be returned to Buyer. Unless otherwise stated, time for
40 acceptance of any counter-offers shall be within 2 days after the day the counter-offer is delivered.
41 (b) The effective date of this Contract will be the date when the last one of the Buyer and Seller has signed or initialed this
42 offer or final counter-offer ("Effective Date").

- 43 4. CLOSING DATE: Unless modified by other provisions of this Contract, the closing of this transaction shall occur and the
44 closing documents required to be furnished by each party pursuant to this Contract shall be delivered ("Closing") on
45* May 5th, 2011 ("Closing Date"), at the time established by the Closing Agent.

46 5. EXTENSION OF CLOSING DATE:

- 47 (a) If Closing funds from Buyer's lender(s) are not available at time of Closing due to Truth In Lending Act (TILA) notice
48 requirements, Closing shall be extended for such period necessary to satisfy TILA notice requirements, not to exceed 7
49 days.
50 (b) If extreme weather or other condition or event constituting "Force Majeure" (see STANDARD G) causes: (i) disruption of
51 utilities or other services essential for Closing, or (ii) Hazard, Wind, Flood or Homeowners' Insurance, to become
52 unavailable prior to Closing, Closing will be extended a reasonable time up to 3 days after restoration of utilities and other
53 services essential to Closing, and availability of applicable Hazard, Wind, Flood or Homeowners' Insurance. If restoration
54* of such utilities or services and availability of Insurance has not occurred within _____ (if left blank, 14) days after
55 Closing Date, then either party may terminate this Contract by delivering written notice to the other party, and Buyer shall be
56 refunded the Deposit, thereby releasing Buyer and Seller from all further obligations under this Contract.

- 57 6. OCCUPANCY AND POSSESSION: Unless otherwise stated herein, Seller shall, at Closing, have removed all personal items
58 and trash from the Property and shall deliver occupancy and possession, along with all keys, garage door openers, access
59 devices and codes, as applicable, to Buyer. If Property is intended to be rented or occupied beyond Closing, the fact and terms
60 thereof and the tenant(s) or occupants shall be disclosed pursuant to STANDARD D. If occupancy is to be delivered before
61 Closing, Buyer assumes all risks of loss to Property from date of occupancy, shall be responsible and liable for maintenance
62 from that date, and shall be deemed to have accepted Property in its existing condition as of time of taking occupancy.

- 63 7. ASSIGNABILITY: (CHECK ONE) Buyer ☐ may assign and thereby be released from any further liability under this Contract;
64* ☒ may assign but not be released from liability under this Contract; or ☐ may not assign this Contract.

65 FINANCING

66 8. FINANCING:

- 67* ☒ (a) Buyer will pay cash or may obtain a loan for the purchase of the Property. There is no financing contingency to Buyer's
68 obligation to close.
69* ☐ (b) This Contract is contingent upon Buyer obtaining a written loan commitment for a ☐ conventional ☐ FHA ☐ VA loan
70* on the following terms within _____ (if blank, then 30) days after Effective Date ("Loan Commitment Date") for:
71* (CHECK ONE): ☐ fixed, ☐ adjustable, ☐ fixed or adjustable rate loan in the principal amount of \$ _____
72* or _____ % of the Purchase Price, at an initial interest rate not to exceed _____ % (if blank, then prevailing rate
73* based upon Buyer's creditworthiness), and for a term of _____ years ("Financing").

74* Buyer will make mortgage loan application for the Financing within _____ (if blank, then 5) days after Effective Date
75 and use good faith and diligent effort to obtain a written loan commitment for the Financing ("Loan Commitment") and
76 close this Contract. Buyer shall keep Seller and Broker fully informed about the status of mortgage loan application
77 and Loan Commitment and authorizes Buyer's mortgage broker and Buyer's lender to disclose such status and
78 progress to Seller and Broker.

79 If Buyer does not receive Loan Commitment, then Buyer may terminate this Contract by delivering written notice to
80 Seller, and the Deposit shall be refunded to Buyer, thereby releasing Buyer and Seller from all further obligations
81 under this Contract.

82 If Buyer does not deliver written notice to Seller of receipt of Loan Commitment or Buyer's written waiver of this
83 financing contingency, then after Loan Commitment Date Seller may terminate this Contract by delivering written
84 notice to Buyer and the Deposit shall be refunded to Buyer, thereby releasing Buyer and Seller from all further
85 obligations under this Contract.

86 If Buyer delivers written notice of receipt of Loan Commitment to Seller and this Contract does not thereafter close, the
87 Deposit shall be paid to Seller unless failure to close is due to: (1) Seller's default; (2) Property related conditions of the
88 Loan Commitment have not been met (except when such conditions are waived by other provisions of this Contract);
89 (3) appraisal of the Property obtained by Buyer's lender is insufficient to meet terms of the Loan Commitment; or (4)
90 the loan is not funded due to financial failure of Buyer's lender, in which event(s) the Deposit shall be returned to
91 Buyer, thereby releasing Buyer and Seller from all further obligations under this Contract.

- 92* ☐ (c) Assumption of existing mortgage (see rider for terms).
93* ☐ (d) Purchase money note and mortgage to Seller (see riders; addenda; or special clauses for terms).

94 CLOSING COSTS, FEES AND CHARGES

95 9. CLOSING COSTS; TITLE INSURANCE; SURVEY; HOME WARRANTY; SPECIAL ASSESSMENTS:

96 (a) COSTS TO BE PAID BY SELLER:

- Documentary stamp taxes and surtax on deed, if any
- Owner's Policy and Charges (if Paragraph 9(c)(I) is checked)
- Title search charges (if Paragraph 9(c)(III) is checked)
- Other: _____
- HOA/Condominium Association estoppel fees
- Recording and other fees needed to cure title
- Seller's attorneys' fees

97 If, prior to Closing, Seller is unable to meet the AS IS Maintenance Requirement as required by Paragraph 11 a sum equal
98 to 125% of estimated cost to meet the AS IS Maintenance Requirement shall be escrowed at Closing. If actual costs to
99 meet the AS IS Maintenance Requirement exceed escrowed amount, Seller shall pay such actual costs. Any unused
100 portion of escrowed amount shall be returned to Seller.

101 (b) **COSTS TO BE PAID BY BUYER:**

- Taxes and recording fees on notes and mortgages
- Recording fees for deed and financing statements
- Owner's Policy and Charges (If Paragraph 9(c)(ii) is checked)
- Survey (and elevation certification, if required)
- Lender's title policy and endorsements
- HOA/Condominium Association application/transfer fees
- Other: _____
- Loan expenses
- Appraisal fees
- Buyer's Inspections
- Buyer's attorney's fees
- All property related insurance

102* (c) **TITLE EVIDENCE AND INSURANCE:** At least 15 _____ (if blank, then 5) days prior to Closing Date, a title insurance
103 commitment issued by a Florida licensed title insurer, with legible copies of instruments listed as exceptions attached
104 thereto ("Title Commitment") and, after Closing, an owner's policy of title insurance (see STANDARD A for terms) shall be
105 obtained and delivered to Buyer. If Seller has an owner's policy of title insurance covering the Real Property, a copy shall
106 be furnished to Buyer and Closing Agent within 5 days after Effective Date. The owner's title policy premium and charges
107 for owner's policy endorsements, title search, and closing services (collectively, "Owner's Policy and Charges") shall be
108 paid, as set forth below

109 **(CHECK ONE):**

- 110* ☒ (i) Seller will designate Closing Agent and pay for Owner's Policy and Charges (but not including charges for closing
111 services related to Buyer's lender's policy and endorsements and loan closing, which amounts shall be paid by Buyer to
112 Closing Agent or such other provider(s) as Buyer may select); or
113* ☐ (ii) Buyer will designate Closing Agent and pay for Owner's Policy and Charges and charges for closing services
114 related to Buyer's lender's policy, endorsements, and loan closing; or
115* ☐ (iii) **[MIAMI-DADE/BROWARD REGIONAL PROVISION]:** Seller will furnish a copy of a prior owner's policy of title
116 insurance or other evidence of title and pay fees for: (A) a continuation or update of such title evidence, which is
117 acceptable to Buyer's title insurance underwriter for reissue of coverage; (B) tax search; and (C) municipal lien search.
118 Buyer shall obtain and pay for post-Closing continuation and premium for Buyer's owner's policy, and if applicable, Buyer's
119* lender's policy. Seller shall not be obligated to pay more than \$ _____ (if blank, \$200.00) for abstract continuation
120 or title search ordered or performed by Closing Agent.

121 (d) **SURVEY:** At least 5 days prior to Closing, Buyer may, at Buyer's expense, have the Real Property surveyed and certified
122 by a registered Florida surveyor ("Survey"). If Seller has a survey covering the Real Property, a copy shall be furnished to
123 Buyer and Closing Agent within 5 days after Effective Date.

124* (e) **HOME WARRANTY:** At Closing, ☐ Buyer ☐ Seller ☒ N/A will pay for a home warranty plan issued by
125* _____ at a cost not to exceed \$ _____. A home warranty plan provides for
126 repair or replacement of many of a home's mechanical systems and major built-in appliances in the event of breakdown
127 due to normal wear and tear during the agreement's warranty period.

128 (f) **SPECIAL ASSESSMENTS:** At Closing, Seller will pay: (i) the full amount of liens imposed by a public body ("public body"
129 does not include a Condominium or Homeowner's Association) that are certified, confirmed and ratified before Closing;
130 and (ii) the amount of the public body's most recent estimate or assessment for an improvement which is substantially
131 complete as of Effective Date, but that has not resulted in a lien being imposed on the Property before Closing. Buyer will
132 pay all other assessments. If special assessments may be paid in installments **(CHECK ONE):**

133* ☐ (a) Seller shall pay installments due prior to Closing and Buyer shall pay installments due after Closing.
134 Installments prepaid or due for the year of Closing shall be prorated.

135* ☒ (b) Seller shall pay the assessment(s) in full prior to or at the time of Closing.

136 **IF NEITHER BOX IS CHECKED, THEN OPTION (a) SHALL BE DEEMED SELECTED.**

137 This Paragraph 9(f) shall not apply to a special benefit tax lien imposed by a community development district (CDD)
138 pursuant to Chapter 180 F.S. which lien shall be treated as an ad valorem tax and prorated pursuant to STANDARD K

139 **DISCLOSURES**

140 **10. DISCLOSURES:**

141 (a) **RADON GAS:** Radon is a naturally occurring radioactive gas that, when it is accumulated in a building in sufficient
142 quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and
143 state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be
144 obtained from your county health department.

145 (b) **PERMITS DISCLOSURE:** Except as may have been disclosed by Seller to Buyer in a written disclosure, Seller does
146 not know of any improvements made to the Property which were made without required permits or made
147 pursuant to permits which have not been properly closed.

148 (c) **MOLD:** Mold is naturally occurring and may cause health risks or damage to property. If Buyer is concerned or desires
149 additional information regarding mold, Buyer should contact an appropriate professional.

150 (d) **FLOOD ZONE; ELEVATION CERTIFICATION:** Buyer is advised to verify by elevation certificate which flood zone the
151 Property is in, whether flood insurance is required by Buyer's lender, and what restrictions apply to improving the Property
152 and rebuilding in the event of casualty. If Property is in a "Special Flood Hazard Area" or "Coastal High Hazard Area" and
153 finished floor elevation is below minimum flood elevation, Buyer may terminate this Contract by delivering written notice to
154 Seller within 20 days after Effective Date, failing which Buyer accepts existing elevation of buildings and flood zone
155 designation of Property.

156 (e) **ENERGY BROCHURE:** Buyer acknowledges receipt of Florida Energy-Efficiency Rating Information Brochure required by

- 157 Section 553.996, F.S.
158 (f) **LEAD-BASED PAINT:** If Property includes pre-1978 residential housing, a lead-based paint rider is mandatory.
159 (g) **HOMEOWNERS' ASSOCIATION/COMMUNITY DISCLOSURE:** BUYER SHOULD NOT EXECUTE THIS CONTRACT
160 UNTIL BUYER HAS RECEIVED AND READ THE HOMEOWNERS' ASSOCIATION/COMMUNITY DISCLOSURE, IF
161 APPLICABLE.
162 (h) **PROPERTY TAX DISCLOSURE SUMMARY:** BUYER SHOULD NOT RELY ON THE SELLER'S CURRENT PROPERTY
163 TAXES AS THE AMOUNT OF PROPERTY TAXES THAT THE BUYER MAY BE OBLIGATED TO PAY IN THE YEAR
164 SUBSEQUENT TO PURCHASE. A CHANGE OF OWNERSHIP OR PROPERTY IMPROVEMENTS TRIGGERS
165 REASSESSMENTS OF THE PROPERTY THAT COULD RESULT IN HIGHER PROPERTY TAXES. IF YOU HAVE ANY
166 QUESTIONS CONCERNING VALUATION, CONTACT THE COUNTY PROPERTY APPRAISER'S OFFICE FOR
167 INFORMATION.
168 (i) **TAX WITHHOLDING:** If Seller is a "foreign person" as defined by the Foreign Investment in Real Property Tax Act
169 ("FIRPTA"), Buyer and Seller will comply with FIRPTA, which may require Seller to provide additional cash at Closing.
170 (j) **SELLER DISCLOSURE:** Seller knows of no facts materially affecting the value of the Real Property which are not readily
171 observable and which have not been disclosed to Buyer. Except as stated in the preceding sentence or otherwise
172 disclosed in writing: (1) Seller has received no written or verbal notice from any governmental entity or agency as to a
173 currently uncorrected building, environmental or safety code violation; and (2) Seller extends and intends no warranty and
174 makes no representation of any type, either express or implied, as to the physical condition or history of the Property.

175 **PROPERTY MAINTENANCE, CONDITION, INSPECTIONS AND EXAMINATIONS**

- 176 11. **PROPERTY MAINTENANCE:** Except for ordinary wear and tear and Casualty Loss, Seller shall maintain the Property,
177 including, but not limited to, lawn, shrubbery, and pool, in the condition existing as of Effective Date ("AS IS Maintenance
178 Requirement").
179 12. **PROPERTY INSPECTION; RIGHT TO CANCEL:**
180 (a) **PROPERTY INSPECTIONS AND RIGHT TO CANCEL:** Buyer shall have 20 (if blank, 15) days from Effective
181 Date ("Inspection Period") within which to have such inspections of the Property performed as Buyer shall desire
182 during the Inspection Period. If Buyer determines, in Buyer's sole discretion, that the Property is not acceptable
183 to Buyer, Buyer may terminate this Contract by delivering written notice of such election to Seller prior to
184 expiration of Inspection Period. If Buyer timely terminates this Contract, the Deposit paid shall be immediately
185 returned to Buyer, thereupon, Buyer and Seller shall be released of all further obligations under this Contract;
186 however, Buyer shall be responsible for prompt payment for such inspections, for repair of damage to, and
187 restoration of, the Property resulting from such inspections, and shall provide Seller with paid receipts for all work
188 done on the Property (the preceding provision shall survive termination of this Contract). Unless Buyer exercises
189 the right to terminate granted herein, Buyer accepts the physical condition of the Property and any violation of
190 governmental, building, environmental, and safety codes, restrictions, or requirements, but subject to Seller's
191 continuing AS IS Maintenance Requirement, and Buyer shall be responsible for any and all repairs and
192 improvements required by Buyer's lender.
193 (b) **WALK-THROUGH INSPECTION/RE-INSPECTION:** On the day prior to Closing Date, or on Closing Date prior to time of
194 Closing, as specified by Buyer, Buyer or Buyer's representative may perform a walk-through (and follow-up walk-through,
195 if necessary) inspection of the Property solely to confirm that all Items of Personal Property are on the Property and to
196 verify that Seller has maintained the Property as required by the AS IS Maintenance Requirement and has met all other
197 contractual obligations.
198 (c) **SELLER ASSISTANCE AND COOPERATION IN CLOSE-OUT OF BUILDING PERMITS:** If Buyer's inspection of the
199 Property identifies open or needed building permits, then Seller shall promptly deliver to Buyer all plans, written
200 documentation or other information in Seller's possession, knowledge, or control relating to improvements to the Property
201 which are the subject of such open or needed permits, and shall promptly cooperate in good faith with Buyer's efforts to
202 obtain estimates of repairs or other work necessary to resolve such permit issues. Seller's obligation to cooperate shall
203 include Seller's execution of necessary authorizations, consents, or other documents necessary for Buyer to conduct
204 inspections and have estimates of such repairs or work prepared, but in fulfilling such obligation, Seller shall not be
205 required to expend, or become obligated to expend, any money.
206 (d) **ASSIGNMENT OF REPAIR AND TREATMENT CONTRACTS AND WARRANTIES:** At Buyer's option and cost, Seller will,
207 at Closing, assign all assignable repair, treatment and maintenance contracts and warranties to Buyer.

208 **ESCROW AGENT AND BROKER**

- 209 13. **ESCROW AGENT:** Any Closing Agent or Escrow Agent (collectively "Agent") receiving the Deposit, other funds and other
210 items is authorized, and agrees by acceptance of them, to deposit them promptly, hold same in escrow within the State of
211 Florida and, subject to COLLECTION, disburse them in accordance with terms and conditions of this Contract. Failure of
212 funds to become COLLECTED shall not excuse Buyer's performance. When conflicting demands for the Deposit are
213 received, or Agent has a good faith doubt as to entitlement to the Deposit, Agent may take such actions permitted by this
214 Paragraph 13, as Agent deems advisable. If in doubt as to Agent's duties or liabilities under this Contract, Agent may, at
215 Agent's option, continue to hold the subject matter of the escrow until the parties agree to its disbursement or until a final
216 judgment of a court of competent jurisdiction shall determine the rights of the parties, or Agent may deposit same with the
217 clerk of the circuit court having jurisdiction of the dispute. An attorney who represents a party and also acts as Agent may
218 represent such party in such action. Upon notifying all parties concerned of such action, all liability on the part of Agent shall
219 fully terminate, except to the extent of accounting for any items previously delivered out of escrow. If a licensed real estate
220 broker, Agent will comply with provisions of Chapter 475, F.S., as amended and FREC rules to timely resolve escrow disputes
221 through mediation, arbitration, interpleader or an escrow disbursement order. Any proceeding between Buyer and Seller
222 wherein Agent is made a party because of acting as Agent hereunder, or in any proceeding where Agent interpleads the
223 subject matter of the escrow, Agent shall recover reasonable attorney's fees and costs incurred, to be paid pursuant to court

224 order out of the escrowed funds or equivalent. Agent shall not be liable to any party or person for mis-delivery of any escrowed
225 items, unless such mis-delivery is due to Agent's willful breach of this Contract or Agent's gross negligence. This Paragraph 13
226 shall survive Closing or termination of this Contract.

227 14. **PROFESSIONAL ADVICE; BROKER LIABILITY:** Broker advises Buyer and Seller to verify Property condition, square
228 footage, and all other facts and representations made pursuant to this Contract and to consult appropriate professionals for
229 legal, tax, environmental, and other specialized advice concerning matters affecting the Property and the transaction
230 contemplated by this Contract. Broker represents to Buyer that Broker does not reside on the Property and that all
231 representations (oral, written or otherwise) by Broker are based on Seller representations or public records. **BUYER AGREES**
232 **TO RELY SOLELY ON SELLER, PROFESSIONAL INSPECTORS AND GOVERNMENTAL AGENCIES FOR VERIFICATION**
233 **OF PROPERTY CONDITION, SQUARE FOOTAGE AND FACTS THAT MATERIALLY AFFECT PROPERTY VALUE AND NOT**
234 **ON THE REPRESENTATIONS (ORAL, WRITTEN OR OTHERWISE) OF BROKER.** Buyer and Seller (individually, the
235 "Indemnifying Party") each individually indemnifies, holds harmless, and releases Broker and Broker's officers, directors,
236 agents and employees from all liability for loss or damage, including all costs and expenses, and reasonable attorney's fees at
237 all levels, suffered or incurred by Broker and Broker's officers, directors, agents and employees in connection with or arising
238 from claims, demands or causes of action instituted by Buyer or Seller based on: (i) Inaccuracy of information provided by the
239 Indemnifying Party or from public records; (ii) Indemnifying Party's misstatement(s) or failure to perform contractual obligations;
240 (iii) Broker's performance, at Indemnifying Party's request, of any task beyond the scope of services regulated by Chapter 475,
241 F.S., as amended, including Broker's referral, recommendation or retention of any vendor for, or on behalf of Indemnifying
242 Party; (iv) products or services provided by any such vendor for, or on behalf of, Indemnifying Party; and (v) expenses incurred
243 by any such vendor. Buyer and Seller each assumes full responsibility for selecting and compensating their respective vendors
244 and paying their other costs under this Contract whether or not this transaction closes. This Paragraph 14 will not relieve
245 Broker of statutory obligations under Chapter 475, F.S., as amended. For purposes of this Paragraph 14, Broker will be treated
246 as a party to this Contract. This Paragraph 14 shall survive Closing or termination of this Contract.

247 **DEFAULT AND DISPUTE RESOLUTION**

248 15. **DEFAULT:**

249 (a) **BUYER DEFAULT:** If Buyer fails, neglects or refuses to perform Buyer's obligations under this Contract, including
250 payment of the Deposit, within the time(s) specified, Seller may elect to recover and retain the Deposit for the account of
251 Seller as agreed upon liquidated damages, consideration for execution of this Contract, and in full settlement of any claims,
252 whereupon Buyer and Seller shall be relieved from all further obligations under this Contract, or Seller, at Seller's option, may,
253 pursuant to Paragraph 16, proceed in equity to enforce Seller's rights under his Contract. The portion of the Deposit, if any,
254 paid to Listing Broker upon default by Buyer, shall be split equally between Listing Broker and Cooperating Broker; provided
255 however, Cooperating Broker's share shall not be greater than the commission amount Listing Broker had agreed to pay
256 to Cooperating Broker.

257 (b) **SELLER DEFAULT:** If for any reason other than failure of Seller to make Seller's title marketable after reasonable diligent
258 effort, Seller fails, neglects or refuses to perform Seller's obligations under this Contract, Buyer may elect to receive return
259 of Buyer's Deposit without thereby waiving any action for damages resulting from Seller's breach, and, pursuant to
260 Paragraph 16, may seek to recover such damages or seek specific performance. This Paragraph 15 shall survive Closing
261 or termination of this Contract.

262 16. **DISPUTE RESOLUTION:** Unresolved controversies, claims and other matters in question between Buyer and Seller arising
263 out of, or relating to, this Contract or its breach, enforcement or interpretation ("Dispute") will be settled as follows:

264 (a) Buyer and Seller will have 10 days after the date conflicting demands for the Deposit are made to attempt to resolve such
265 Dispute, failing which, Buyer and Seller shall submit such Dispute to mediation under Paragraph 16(b).

266 (b) Buyer and Seller shall attempt to settle Disputes in an amicable manner through mediation pursuant to Florida Rules for
267 Certified and Court-Appointed Mediators and Chapter 44, F.S., as amended (the "Mediation Rules"). The mediator must be
268 certified or must have experience in the real estate industry. Injunctive relief may be sought without first complying with this
269 Paragraph 16(b). Disputes not settled pursuant to this Paragraph 16 may be resolved by instituting action in the
270 appropriate court having jurisdiction of the matter. This Paragraph 16 shall survive Closing or termination of this Contract.

271 17. **ATTORNEY'S FEES; COSTS:** The parties will split equally any mediation fee incurred in any mediation permitted by this
272 Contract, and each party will pay their own costs, expenses and fees, including attorney's fees, incurred in conducting the
273 mediation. In any litigation permitted by this Contract, the prevailing party shall be entitled to recover from the non-prevailing
274 party costs and fees, including reasonable attorney's fees, incurred in conducting the litigation. This Paragraph 17 shall survive
275 Closing or termination of this Contract.

276 **STANDARDS FOR REAL ESTATE TRANSACTIONS ("STANDARDS")**

277 18. **STANDARDS:**

278 A. **TITLE:**

279 (i) **TITLE EVIDENCE; RESTRICTIONS; EASEMENTS; LIMITATIONS:** Within the time period provided in Paragraph 9(c), the
280 Title Commitment, with legible copies of instruments listed as exceptions attached thereto, shall be issued and delivered to Buyer.
281 Title Commitment shall set forth those matters to be discharged by Seller at or before Closing and shall provide that, upon
282 recording of the deed to Buyer, an owner's policy of title insurance in the amount of the Purchase Price, shall be issued to Buyer
283 insuring Buyer's marketable title to the Real Property, subject only to the following matters: (a) comprehensive land use plans,
284 zoning, and other land use restrictions, prohibitions and requirements imposed by governmental authority; (b) restrictions and
285 matters appearing on the Plat or otherwise common to the subdivision; (c) outstanding oil, gas and mineral rights of record without
286 right of entry; (d) unplatted public utility easements of record (located contiguous to real property lines and not more than 10 feet in
287 width as to rear or front lines and 7 1/2 feet in width as to side lines); (e) taxes for year of Closing and subsequent years; and (f)
288 assumed mortgages and purchase money mortgages, if any (if additional items, attach addendum); provided, that, unless waived
289 by Paragraph 12 (a), there exists at Closing no violation of the foregoing and none prevent use of the Property for **RESIDENTIAL**
290 **PURPOSES.** If there exists at Closing any violation of items identified in (b) - (f) above, then the same shall be deemed a title

291 defect. Marketable title shall be determined according to applicable Title Standards adopted by authority of The Florida Bar and in
292 accordance with law.

293 (ii) **TITLE EXAMINATION:** Buyer shall have 5 days after receipt of Title Commitment to examine it and notify Seller in writing
294 specifying defect(s), if any, that render title unmarketable. If Seller provides Title Commitment and it is delivered to Buyer less than
295 5 days prior to Closing Date, Buyer may extend Closing for up to 5 days after date of receipt to examine same in accordance with
296 this STANDARD A. Seller shall have 30 days ("Cure Period") after receipt of Buyer's notice to take reasonable diligent efforts to
297 remove defects. If Buyer fails to so notify Seller, Buyer shall be deemed to have accepted title as it then is. If Seller cures defects
298 within Cure Period, Seller will deliver written notice to Buyer (with singular shall include plural and one gender shall include all.
299 Notice and delivery given by or to the attorney or broker representing any party shall be as proof of cure acceptable to Buyer and
300 Buyer's attorney) and the parties will close this Contract on Closing Date (or if Closing Date has passed, within 10 days after
301 Buyer's receipt of Seller's notice). If Seller is unable to cure defects within Cure Period, then Buyer may, within 5 days after
302 expiration of Cure Period, deliver written notice to Seller: (a) extending Cure Period for a specified period not to exceed 120 days
303 within which Seller shall continue to use reasonable diligent effort to remove or cure the defects ("Extended Cure Period"); or (b)
304 electing to accept title with existing defects and close this Contract on Closing Date (or if Closing Date has passed, within the
305 earlier of 10 days after end of Extended Cure Period or Buyer's receipt of Seller's notice), or (c) electing to terminate this Contract
306 and receive a refund of the Deposit, thereby releasing Buyer and Seller from all further obligations under this Contract. If after
307 reasonable diligent effort, Seller is unable to timely cure defects, and Buyer does not waive the defects, this Contract shall
308 terminate, and Buyer shall receive a refund of the Deposit, thereby releasing Buyer and Seller from all further obligations under this
309 Contract.

310 **B. SURVEY:** If Survey discloses encroachments on the Real Property or that improvements located thereon encroach on setback
311 lines, easements, or lands of others; or violate any restrictions, covenants, or applicable governmental regulations described in
312 STANDARD A (i)(a), (b) or (d) above, Buyer shall deliver written notice of such matters, together with a copy of Survey, to Seller
313 within 5 days after Buyer's receipt of Survey, but no later than Closing. If Buyer timely delivers such notice and Survey to Seller,
314 such matters identified in the notice and Survey shall constitute a title defect, subject to cure obligations of STANDARD A above. If
315 Seller has delivered a prior survey, Seller shall, at Buyer's request, execute an affidavit of "no change" to the Real Property since
316 the preparation of such prior survey, to the extent the affirmations therein are true and correct.

317 **C. INGRESS AND EGRESS:** Seller represents that there is ingress and egress to the Real Property and title to the Real Property
318 is insurable in accordance with STANDARD A without exception for lack of legal right of access.

319 **D. LEASES:** Seller shall, within 5 days after Inspection Period, furnish to Buyer copies of all written leases and estoppel letters
320 from each tenant specifying nature and duration of tenant's occupancy, rental rates, advanced rent and security deposits paid by
321 tenant, and income and expense statements for preceding 12 months ("Lease Information"). If Seller is unable to obtain estoppel
322 letters from tenant(s), the same information shall be furnished by Seller to Buyer within that time period in the form of a Seller's
323 affidavit, and Buyer may thereafter contact tenant(s) to confirm such information. If terms of the lease(s) differ materially from
324 Seller's representations, Buyer may deliver written notice to Seller within 5 days after receipt of Lease Information, but no later than
325 5 days prior to Closing Date, terminating this Contract and receive a refund of the Deposit, thereby releasing Buyer and Seller from
326 all further obligations under this Contract. Seller shall, at Closing, deliver and assign all original leases to Buyer who shall assume
327 Seller's obligation thereunder.

328 **E. LIENS:** Seller shall furnish to Buyer at Closing an affidavit attesting: (i) to the absence of any financing statement, claims of
329 lien or potential lienors known to Seller, and (ii) that there have been no improvements or repairs to the Real Property for 90 days
330 immediately preceding Closing Date. If the Real Property has been improved or repaired within that time, Seller shall deliver
331 releases or waivers of construction liens executed by all general contractors, subcontractors, suppliers and materialmen in addition
332 to Seller's ten affidavit setting forth names of all such general contractors, subcontractors, suppliers and materialmen, further
333 affirming that all charges for improvements or repairs which could serve as a basis for a construction lien or a claim for damages
334 have been paid or will be paid at Closing.

335 **F. TIME:** Calendar days shall be used in computing time periods. Any time periods provided for in this Contract which shall end
336 on a Saturday, Sunday, or a national legal holiday (see 5 U.S.C. 6103) shall extend to 5:00 p.m. (where the Property is located) of
337 the next business day. Time is of the essence in this Contract.

338 **G. FORCE MAJEURE:** Buyer or Seller shall not be required to perform any obligation under this Contract or be liable to each
339 other for damages so long as performance or non-performance of the obligation is delayed, caused or prevented by Force Majeure.
340 "Force Majeure" means: hurricanes, earthquakes, floods, fire, acts of God, unusual transportation delays, wars, insurrections, acts
341 of terrorism, and any other cause not reasonably within control of Buyer or Seller, and which, by exercise of reasonable diligent
342 effort, the non-performing party is unable in whole or in part to prevent or overcome. All time periods, including Closing Date, will
343 be extended for the period that the Force Majeure prevents performance under this Contract, provided, however, if such Force
344 Majeure continues to prevent performance under this Contract more than 14 days beyond Closing Date, then either party may
345 terminate this Contract by delivering written notice to the other and the Deposit shall be refunded to Buyer, thereby releasing Buyer
346 and Seller from all further obligations under this Contract.

347 **H. CONVEYANCE:** Seller shall convey marketable title to the Real Property by statutory warranty, trustee's, personal
348 representative's, or guardian's deed, as appropriate to the status of Seller, subject only to matters described in STANDARD A and
349 those accepted by Buyer. Personal Property shall, at request of Buyer, be transferred by absolute bill of sale with warranty of title,
350 subject only to such matters as may be provided for in this Contract.

351 **I. CLOSING LOCATION; DOCUMENTS; AND PROCEDURE:**

352 (i) **LOCATION:** Closing will take place in the county where the Real Property is located at the office of the attorney or other
353 closing agent ("Closing Agent") designated by the party paying for the owner's policy of title insurance, or, if no title insurance,
354 designated by Seller. Closing may be conducted by mail or electronic means.

355 (ii) **CLOSING DOCUMENTS:** At Closing, Seller shall furnish and pay for, as applicable, deed, bill of sale, certificate of title,
356 construction lien affidavit, owner's possession affidavit, assignments of leases, and corrective instruments. Seller shall provide
357 Buyer with paid receipts for all work done on the Property pursuant to this Contract. Buyer shall furnish and pay for, as applicable,

358 mortgage, mortgage note, security agreement, financing statements, survey, base elevation certification, and other documents
359 required by Buyer's lender.

360 (ii) **PROCEDURE:** The deed shall be recorded upon **COLLECTION** of all closing funds. If the Title Commitment provides
361 insurance against adverse matters pursuant to Section 627.7841, F.S., as amended, the escrow closing procedure required by
362 **STANDARD J** shall be waived, and Closing Agent shall, subject to **COLLECTION** of all closing funds, disburse at Closing the
363 brokerage fees to Broker and the net sale proceeds to Seller.

364 **J. ESCROW CLOSING PROCEDURE:** If Title Commitment issued pursuant to Paragraph 9(c) does not provide for insurance
365 against adverse matters as permitted under Section 627.7841, F.S., as amended, the following escrow and closing procedures
366 shall apply: (1) all Closing proceeds shall be held in escrow by the Closing Agent for a period of not more than 10 days after
367 Closing; (2) If Seller's title is rendered unmarketable, through no fault of Buyer, Buyer shall, within the 10 day period, notify Seller in
368 writing of the defect and Seller shall have 30 days from date of receipt of such notification to cure the defect; (3) If Seller fails to
369 timely cure the defect, the Deposit and all Closing funds paid by Buyer shall, within 5 days after written demand by Buyer, be
370 refunded to Buyer and, simultaneously with such repayment, Buyer shall return the Personal Property, vacate the Real Property and
371 re-convey the Property to Seller by special warranty deed and bill of sale; and (4) If Buyer fails to make timely demand for refund of
372 the Deposit, Buyer shall take title as is, waiving all rights against Seller as to any intervening defect except as may be available to
373 Buyer by virtue of warranties contained in the deed or bill of sale.

374 **K. PRORATIONS; CREDITS:** The following recurring items will be made current (if applicable) and prorated as of the day prior to
375 Closing Date, or date of occupancy if occupancy occurs before Closing Date: real estate taxes (including special benefit tax
376 assessments imposed by a GDD), interest, bonds, association fees, insurance, rents and other expenses of Property. Buyer shall
377 have option of taking over existing policies of insurance, if assumable, in which event premiums shall be prorated. Cash at Closing
378 shall be increased or decreased as may be required by prorations to be made through day prior to Closing. Advance rent and
379 security deposits, if any, will be credited to Buyer. Escrow deposits held by Seller's mortgagee will be paid to Seller. Taxes shall be
380 prorated based on current year's tax with due allowance made for maximum allowable discount, homestead and other exemptions.
381 If Closing occurs on a date when current year's millage is not fixed but current year's assessment is available, taxes will be prorated
382 based upon such assessment and prior year's millage. If current year's assessment is not available, then taxes will be prorated on
383 prior year's tax. If there are completed improvements on the Real Property by January 1st of year of Closing, which improvements
384 were not in existence on January 1st of prior year, then taxes shall be prorated based upon prior year's millage and an equitable
385 assessment to be agreed upon between the parties, failing which, request shall be made to the County Property Appraiser for an
386 informal assessment taking into account available exemptions. A tax proration based on an estimate shall, at either party's request,
387 be readjusted upon receipt of current year's tax bill. This **STANDARD K** shall survive Closing.

388 **L. ACCESS TO PROPERTY TO CONDUCT APPRAISALS, INSPECTIONS, AND WALK-THROUGH:** Seller shall, upon
389 reasonable notice, provide utilities service and access to Property for appraisals and inspections, including a walk-through (or
390 follow-up walk-through if necessary) prior to Closing.

391 **M. RISK OF LOSS:** If, after Effective Date, but before Closing, Property is damaged by fire or other casualty ("Casualty Loss")
392 and cost of restoration (which shall include cost of pruning or removing damaged trees) does not exceed 1.5% of Purchase Price,
393 cost of restoration shall be an obligation of Seller and Closing shall proceed pursuant to terms of this Contract. If restoration is not
394 completed as of Closing, a sum equal to 125% of estimated cost to complete restoration (not to exceed 1.6% of Purchase Price),
395 will be escrowed at Closing. If actual cost of restoration exceeds escrowed amount, Seller shall pay such actual costs (but, not in
396 excess of 1.5% of Purchase Price). Any unused portion of escrowed amount shall be returned to Seller. If cost of restoration
397 exceeds 1.5% of Purchase Price, Buyer shall elect to either take Property "as is" together with the 1.5%, or receive a refund of the
398 Deposit, thereby releasing Buyer and Seller from all further obligations under this Contract. Seller's sole obligation with respect to
399 tree damage by casualty or other natural occurrence shall be cost of pruning or removal.

400 **N. 1031 EXCHANGE:** If either Seller or Buyer wish to enter into a like-kind exchange (either simultaneous with Closing or
401 deferred) under Section 1031 of the Internal Revenue Code ("Exchange"), the other party shall cooperate in all reasonable respects
402 to effectuate the Exchange, including execution of documents; provided, however, cooperating party shall incur no liability or
403 expense related to the Exchange, and Closing shall not be contingent upon, nor extended or delayed by, such Exchange.

404 **O. CONTRACT NOT RECORDABLE; PERSONS BOUND; NOTICE; COPIES:** Neither this Contract nor any notice of it shall be
405 recorded in any public records. This Contract shall be binding on, and inure to the benefit of, the parties and their respective heirs
406 or successors in interest. Whenever the context permits, singular shall include plural and one gender shall include all. Notice and
407 delivery given by or to the attorney or broker (including such broker's real estate licensee) representing any party shall be as
408 effective as if given by or to that party. All notices must be in writing and may be made by mail, personal delivery or electronic
409 (including "pdf") media. A legible facsimile or electronic (including "pdf") copy of this Contract and any signatures hereon shall be
410 considered for all purposes as an original.

411 **P. INTEGRATION; MODIFICATION:** This Contract contains the full and complete understanding and agreement of Buyer and
412 Seller with respect to the transaction contemplated by this Contract and no prior agreements or representations shall be binding
413 upon Buyer or Seller unless included in this Contract. No modification to or change in this Contract shall be valid or binding upon
414 Buyer or Seller unless in writing and executed by the parties intended to be bound by it.

415 **Q. WAIVER:** Failure of Buyer or Seller to insist on compliance with, or strict performance of, any provision of this Contract, or to
416 take advantage of any right under this Contract, shall not constitute a waiver of other provisions or rights.

417 **R. RIDERS; ADDENDA; TYPEWRITTEN OR HANDWRITTEN PROVISIONS:** Riders, addenda, and typewritten or handwritten
418 provisions shall control all printed provisions of this Contract in conflict with them.

419 **S. COLLECTION or COLLECTED:** "COLLECTION" or "COLLECTED" means any checks tendered or received, including
420 Deposits, have become actually and finally collected and deposited in the account of Escrow Agent or Closing Agent.
421 Closing and disbursement of funds and delivery of Closing documents may be delayed by Closing Agent until such
422 amounts have been **COLLECTED** in Closing Agent's accounts.

423 **T. LOAN COMMITMENT:** "Loan Commitment" means a statement by the lender setting forth the terms and conditions upon
424 which the lender is willing to make a particular mortgage loan to a particular borrower.

426 U. **APPLICABLE LAW AND VENUE:** This Contract shall be construed in accordance with the laws of the State of Florida and
427 venue for resolution of all disputes, whether by mediation, arbitration or litigation, shall lie in the county in which the Real Property
428 is located.

429 X. **BUYER WAIVER OF CLAIMS:** Buyer waives any claims against Seller and, to the extent permitted by law, against any
430 real estate licensee involved in the negotiation of this Contract, for any defects or other damage that may exist at Closing
431 of this Contract and be subsequently discovered by the Buyer or anyone claiming by, through, under or against the
432 Buyer.

433

ADDENDA AND ADDITIONAL TERMS

434 19. **ADDENDA:** The following additional terms are included in the attached addenda and incorporated into this Contract (Check if
435 applicable):

- | | | | |
|--|---|---|---|
| ☐ A. Condominium Assn. | ☐ L. RESERVED | ☐ R. Rezoning | ☐ Y. Seller's Attorney Approval |
| ☐ B. Homeowners' Assn. | ☐ M. Defective Drywall | ☐ S. Lease Purchase/Lease Option | ☐ Z. Buyer's Attorney Approval |
| ☐ C. Seller Financing | ☐ N. Coastal Construction Control Line | ☐ T. Pre-Closing Occupancy | ☐ AA. Licensee-Personal Interest in Property |
| ☐ D. Mortgage Assumption | ☐ O. Insulation Disclosure | ☐ U. Post-Closing Occupancy | ☐ BB. Binding Arbitration |
| ☐ E. FHA/VA Financing | ☐ P. Pre-1978 Housing Statement (Lead Based Paint) | ☐ V. Sale of Buyer's Property | ☒ Other |
| ☐ F. Appraisal Contingency | ☐ Q. Housing for Older Persons | ☐ W. Back-up Contract | ☐ CC. Clear Title |
| ☐ G. Short Sale | | ☐ X. Kick-out Clause | |
| ☐ H. Homeowners' Insurance | | | |
| ☐ I. FIRPTA | | | |
| ☐ J. Interest-Bearing Acct. | | | |
| ☐ K. RESERVED | | | |

436 20. **ADDITIONAL TERMS:**

437

COUNTER-OFFER/REJECTION

438* ☐ Seller counters Buyer's offer (to accept the counter-offer, Buyer must sign or initial the counter-offered terms and deliver a
439 copy of the acceptance to Seller).

440* ☐ Seller rejects Buyer's offer.

441 **THIS IS INTENDED TO BE A LEGALLY BINDING CONTRACT. IF NOT FULLY UNDERSTOOD, SEEK THE ADVICE OF AN**
442 **ATTORNEY PRIOR TO SIGNING.**

443 **THIS FORM HAS BEEN APPROVED BY THE FLORIDA REALTORS AND THE FLORIDA BAR.**

444 *Approval of this form by the Florida Realtors and The Florida Bar does not constitute an opinion that any of the terms and*
445 *conditions in this Contract should be accepted by the parties in a particular transaction. Terms and conditions should be negotiated*
446 *based upon the respective interests, objectives and bargaining positions of all interested persons.*

447 **AN ASTERISK (*) FOLLOWING A LINE NUMBER IN THE MARGIN INDICATES THE LINE CONTAINS A BLANK TO BE**
448 **COMPLETED.**



BUYER

Anthony F. Cummings

DATE

09/24/10

BUYER

DATE

SELLER

DATE

SELLER

DATE

449 Buyer's address for purposes of notice

450* 202 Angler

451* Palm Beach, FL

452* 33480

Seller's address for purposes of notice

453 **BROKER:** Listing and Cooperating Brokers, if any, named below (collectively, "Broker"), are the only Brokers entitled to
454 compensation in connection with this Contract. Instruction to Closing Agent: Seller and Buyer direct Closing Agent to disburse at
455 Closing the full amount of the brokerage fees as specified in separate brokerage agreements with the parties and cooperative
456 agreements between the Brokers, except to the extent Broker has retained such fees from the escrowed funds. This Contract shall
457 not modify any MLS or other offer of compensation made by Seller or Listing Broker to Cooperating Brokers.

458* Todd F. Peter

459 Cooperating Sales Associate, if any

460* Sotheby's International Realty

461 Cooperating Broker, if any

Listing Sales Associate

Listing Broker

Sotheby's International Realty
340 Royal Poinciana Way
Suite 337
Palm Beach, FL 33480
Phone: 561-659-3555, Fax: 561-655-2359

Addendum to Contract
FLORIDA ASSOCIATION OF REALTORS®

Addendum No. CC to the Contract dated April 4th, 2011 between

Town of Palm Beach

(Seller) and

Anthony F. Cummings

(Buyer)

concerning the property described as:

110 Angler Ave., Palm Beach, FL 33480

(the "Contract") Buyer and Seller make the following terms and conditions part of the Contract:

Seller must deliver clear and marketable title to Buyer prior to closing.

BUYER

Anthony F. Cummings

DATE

04/04/11

BUYER

DATE

SELLER

Town of Palm Beach

DATE

SELLER

DATE

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Page 1 of 1

TOWN OF PALM BEACH

Town Council Meeting on: May 10, 2011

Section of Agenda

Regular Agenda - New Business

Agenda Title

Appointment of Kirk W. Blouin as Director of Public Safety and Other Actions Regarding the Town's Management Plan.

Presenter

Peter B. Elwell, Town Manager

Supporting Documents

- Memorandum dated May 5, 2011, from Town Manager Peter B. Elwell
- Blouin Professional Employment Agreement

TOWN OF PALM BEACH

Information for Town Council Meeting on: May 10, 2011

To: Mayor and Town Council

From: Peter B. Elwell, Town Manager

Re: Management Team Changes

Date: May 5, 2011

STAFF RECOMMENDATION

I recommend that the Town Council authorize and affirm the following actions:

- Creation of “Director of Public Safety” position on the senior management team
- Creation of the positions of “Deputy Police Chief” and “Deputy Fire-Rescue Chief”
- Employment Agreement with Kirk W. Blouin to serve as Director of Public Safety
- Salary Increase for Jay Boodheshwar in recognition of his additional duties and responsibilities since his promotion last year to the position of “Director of Recreation and Special Projects”

GENERAL INFORMATION

Kirk Blouin has provided outstanding service to the Town during his almost two years as Chief of Police. He has consistently shown strong leadership and innovative management during especially challenging times. Since January 26, 2011, he also has served as the Acting Fire-Rescue Chief. The positive impact of his leadership has been evident not only in his own actions, but also in the actions of those under his command. During the time that Chief Blouin has been serving in both roles, we also have begun to see improved communication and coordination between the Police and Fire-Rescue Departments in certain areas of shared responsibility or service. I believe we have the opportunity to continue identifying and implementing such improvements and that we can accomplish this more readily and efficiently if Chief Blouin continues to serve in both positions. Therefore, after considering this matter at length, I have determined that it is in the Town’s best short and long term interests to have Chief Blouin continue to lead both public safety departments.

It is within my authority as Town Manager to appoint and supervise the Town’s “administrative officials,” which is the term used in the Town Charter and Code to distinguish the department directors, Deputy Town Manager, and Assistant Town Manager positions from the other employees of the Town. The appointive administrative officials are identified by title in Sec. 2-136 of the Town Code and Sec. 2-139 makes it clear that these officials serve at my pleasure, just as I serve at the pleasure of the Mayor and Town Council.

Nevertheless, in order to avoid any ambiguity regarding my appointment of Chief Blouin to fulfill the duties and responsibilities of both Police Chief and Fire Rescue Chief, I believe it is necessary and appropriate to ask the Town Council to affirm my decision in this matter and to authorize me to enter into an agreement with Chief Blouin that will make his employment status explicitly clear.

I propose that this agreement specify his new title as “Director of Public Safety” and that it plainly state that he will “perform the functions and duties of the Chief of Police and the Chief of Fire-Rescue as specified in the Town Charter and Code of Ordinances.” The remainder of the agreement similarly makes it clear in language that is applicable to this unique situation that Chief Blouin will be continuing to serve the Town with all rights and responsibilities applicable to the Town’s appointive administrative officials.

Chief Blouin has not received any additional compensation for the 3+ months he has served as Acting Fire-Rescue Chief. It is important for us to recognize the substantial increase in responsibility that this dual role represents and to significantly increase Chief Blouin’s compensation as moves from Acting Fire-Rescue Chief to Director of Public Safety. Therefore, I propose that his annual salary be increased by \$30,000 (to \$167, 944), effective immediately.

I also am proposing that one of the two Assistant Fire-Rescue Chief positions and one of the two Police Major positions be upgraded to Deputy Fire-Rescue Chief and Deputy Police Chief, respectively. This will be an important part of streamlining the management structure over the Town’s two public safety functions, as it will identify the single individual in each department who will be accountable to Chief Blouin, me, you, and the community for the effective day-to-day management of the applicable department. By upgrading existing positions, we will accomplish this without any increase in personnel complement, but there will need to be a salary increase for each position in recognition of the additional duties and responsibilities. I propose that this increase be in an amount not to exceed \$10,000 for each of the two Deputy Chief positions.

If you approve my recommendations as set forth in this memorandum, Major Dan Szarszewski will be appointed to the position of Deputy Police Chief. Chief Blouin and I have not yet determined who will be appointed to the position of Deputy Fire-Rescue Chief. We will be reviewing this matter further in the coming weeks and will advise you of our appointment decision when that decision has been made.

This modification of the management structure over the two public safety departments will not consolidate the two departments into one. Under the leadership of their respective deputy chief, each department will continue to function as a distinct entity. However, we do foresee achieving some economies of scale (as well as the improved communication and coordination that I mentioned above) as a result of establishing a unity of command over these two essential functions. There also will be immediate cost savings. When the salary increases noted above (and the applicable FICA) are subtracted from the savings of eliminating the Fire-Rescue Chief position from the Town’s budget, the net savings of these changes will exceed \$90,000.

This is part of the Town's continuing effort to improve efficiency without sacrificing effectiveness so we can maintain a sustainable level of taxation without reducing quantity or quality of services to the community. During the past four years, we have reduced Town staffing by 48 positions (11.6%). During that same period, we have reduced staffing at the top two levels of Town management by 3 positions (14.3%). We have plans to reduce this number even further during the next few years as retirements at the assistant department director level create opportunities to achieve additional efficiencies through attrition. Finally, at the senior management team level (Town Manager and the Town's appointive administrative officials) we have reduced staffing by 2 positions (20%).

We have been able to accomplish these reductions and still maintain high standards of service and leadership because of the dedication and effectiveness of Deputy Town Manager Tom Bradford and the Town's department directors. Everyone has had to "do more with less" and everyone has risen to this occasion. In addition, one person has been asked not only to accomplish his department's mission with fewer resources but also to step out beyond his department and assume responsibilities of Townwide scope and major importance: Jay Boodheshwar.

In the past two years, Jay has assumed responsibility for the Town's emergency preparedness, facilitated the Centennial Celebration, led the improvement of procurement policies and practices, and served for 3 months as Acting Public Works Director. His work in all of these areas has been outstanding and he has received no additional compensation beyond his salary as Director of Recreation. Last year, in recognition of his increased role, we changed his title to Director of Recreation and Special Projects. I am proposing that this year, effective with the new fiscal year on October 1, 2011, we increase his annual salary by \$12,000 (to \$130,853). Jay is serving as a de facto part time Assistant Town Manager even as he continues to fulfill all his duties and responsibilities as Director of Recreation. Because of this, we have been able to eliminate the Assistant Town Manager position from the Town's budget at a savings of well over \$100,000. Since that decision was already made last year, I am not showing it in the math related to the current cost savings provided by the actions I am recommending in this memorandum. Instead, I am deducting Jay's additional salary and FICA from the savings achieved through the elimination of the Fire-Rescue Chief position from the Town's budget. Even after this additional offset, the savings provided by my current recommendations will exceed \$80,000 annually.

FUNDING/FISCAL IMPACT

Impact of Proposed Public Safety Changes:

	\$136,186 = Savings from elimination of Fire Chief's salary
-	50,000 = Maximum cost of proposed salary increases
	86,186 = Net salary savings
+	6,593 = Net FICA savings
	\$ 92,779 = Minimum net savings

Aggregate Impact of All Proposed Changes:

	\$136,186 = Savings from elimination of Fire Chief's salary
-	62,000 = Maximum cost of proposed salary increases
	74,186 = Net salary savings
	5,675 = Net FICA savings
\$	79,861 = Minimum net savings

TOWN ATTORNEY REVIEW

The Town Attorney has reviewed the attached Professional Employment Agreement and approved it for legal form and sufficiency.

PBE:cek

Attachment

cc: Kirk W. Blouin, Chief of Police
Jay Boodheshwar, Director of Recreation and Special Projects
Danielle Olson, Director of Human Resources
Jane Struder, Director of Finance

PROFESSIONAL EMPLOYMENT AGREEMENT

THIS AGREEMENT, made and entered into this 10th day of May, 2011, by and between the Town of Palm Beach, Florida, a municipal corporation hereinafter called the “Town” and Kirk W. Blouin, hereinafter called “Employee”, both of whom understand as follows:

WITNESSETH:

WHEREAS, the Town desires to employ the services of Kirk W. Blouin as Director of Public Safety of the Town of Palm Beach; and

WHEREAS, Employee desires to accept employment as Director of Public Safety of said Town.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

Section 1. Duties

Town hereby agrees to employ Kirk W. Blouin as Director of Public Safety of the Town to perform the functions and duties of the Chief of Police and the Chief of Fire-Rescue as specified in the Town Charter and Code of Ordinances, and to perform such other legally permissible and proper duties and functions as the Town Manager may from time to time assign.

Section 2. Term

A. This Agreement shall be effective immediately upon execution by both parties and shall remain in effect until terminated by either party in accordance with the terms set forth herein.

B. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the Town to terminate the services of Employee at the will of the Town Manager without cause, at any time, subject only to the provisions set forth in Section 3 Paragraph A, of this Agreement.

C. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the Employee to resign at any time from his position with the Town, subject only to the provisions set forth in Section 3, Paragraph C, of this Agreement.

Section 3. Termination and Severance Pay

A. In the event Employee is terminated by the Town then in that event the Town agrees to pay a lump sum cash payment equal to twenty (20) weeks base salary, based upon the salary paid Employee as of the date of termination. All life, health, dental, and disability insurance and other non-leave related benefits provided by the Town shall continue in full force and effect at Town's expense until the end of the applicable severance period or until similar coverage is provided to Employee by a subsequent employer (and is in full force and effect), whichever comes first. Said continuation of group health insurance coverage shall be in addition to the protection afforded the Employee by the Consolidated Omnibus Budget Reconciliation Act (COBRA). Coverage under COBRA shall be at the Employee's expense and shall commence upon the expiration of all coverage provided under the severance provision herein. In the event the Employee is terminated because of permanent disability to perform official duties, conviction of a felony relating to official duties or involving moral turpitude, or because of his conviction of any illegal act involving personal gain to him, then, in that event, Town shall have no obligation to pay the severance benefits designated in this paragraph. In exchange for receiving the severance benefits designated in this paragraph, Employee shall execute a document fully releasing the Town, its employees, officials, agents, and representatives from any claim of Employee related to Employee's Town employment or termination.

B. At any time during the employment term, the Town Manager may, in his sole discretion, determine that it is in the Town's best interests to retain separate individuals as Chief of Police and Chief of Fire-Rescue. In the event that happens, and if the Town Manager offers Employee the opportunity to continue serving as either Chief of Police or Chief of Fire-Rescue at a rate of pay that is reduced by 20% or less from Employee's rate of pay as Director of Public Safety, then Employee shall not be entitled to the severance pay referenced in this section.

C. In the event Employee voluntarily resigns his position with the Town, then Employee shall give the Town forty-five (45) days notice in advance. Employee shall not be entitled to the severance pay reference in this section in the event of voluntary resignation.

Section 4. Salary

Town agrees to pay Employee for his services rendered pursuant hereto an annual base salary of \$167,944, payable in bi-weekly installments at the same time as other employees of the Town are paid. This salary may be amended from time to time in accordance with applicable rules that apply to all appointive administrative officials of the Town.

Section 5. Automobile

The Town shall provide Employee with an automobile for business use, which vehicle also may be used for personal purposes within the constraints imposed by Town Administrative Procedure No. 1-08-3, governing Take Home Vehicles, as it may be modified from time to time.

Section 6. Other Terms and Conditions of Employment

A. The Town shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the Town Charter, Town Code of Ordinances, or any other law.

B. All provisions of the Town Charter and/or Code, and regulations and rules of the Town relating to general pay increases, vacation and sick leave, longevity pay, personal days, retirement and pension system contributions, holidays, and other fringe benefits and working conditions as they now exist or hereafter may be amended also shall apply to Employee as they would to other employees of Town, in addition to said benefits enumerated specifically for the benefit of Employee, except as herein provided.

C. Employer shall bear the full cost of any fidelity or other bonds required of the Employee under any ordinance. Employer shall defend, save harmless and indemnify Employee against any tort, professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Employee's duties as Director of Public Safety and for which Employee was acting within the scope of his duties as Director of Public Safety.

D. If any provision, or any portion thereof, contained in this Agreement is held to be unconstitutional, invalid, or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

IN WITNESS WHEREOF, the Town of Palm Beach has caused this Agreement to be signed and executed in its behalf by its Town Manager and duly attested by its Town Clerk, and the Employee has signed and executed this Agreement, both in duplicate, the day and year first above written.

Witness

Kirk W. Blouin, Employee

Witness

ATTEST:

Susan A. Owens, Town Clerk

Peter B. Elwell, Town Manager

Approved for legal form and sufficiency by:

John C. Randolph, Town Attorney

TOWN OF PALM BEACH

Town Council Meeting on: May 10, 2011

Section of Agenda

Regular Agenda - New Business

Agenda Title

Request for Extended Work Hours for Subaqueous Force Main Crossing

Presenter

H. Paul Brazil, Director of Public Works

Supporting Documents

- Memorandum dated April 29, 2011, from H. Paul Brazil, Director of Public Works.
- Letter dated January 21, 2011, from Cornerstone Business, Inc.

TOWN OF PALM BEACH

Information for Town Council Meeting on: May 10, 2011

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: H. Paul Brazil, P.E., Director of Public Works

Re: Request for Extended Work Hours
Subaqueous Force Main Crossing

Date: April 29, 2011

STAFF RECOMMENDATION

Town staff recommends that Town Council approve limited extended work hours to Cornerstone Businesses, Inc. in connection with the subaqueous force main and water main projects.

GENERAL INFORMATION

Cornerstone Businesses, Inc. is the contractor constructing the new water main and sewage force main under the Lake Worth Lagoon between Bradley Park and the City of West Palm Beach Providencia Park. Work is progressing well with the first boring nearly complete.

The boring machine is located in Providencia Park and the pipe assembly is being conducted in Bradley Park. Once the bore hole is completed and the pipe assembled, the contractor will pull the pipes from Bradley Park under the lagoon. This operation, once it is begun, needs to be continuous. The contractor estimates that it will take 12 hours for the pullback, so granting extended work hours to allow completion of the work is necessary. While we could expect the work to be completed in the early evening, there is a possibility that if problems arise, work could extend well into the early morning. This pull back operation is to occur on two occasions, once in June for the water main and once in September for the sewage force main.

Cornerstone's work includes construction of water main pipe to connect to the new subaqueous water main in Bradley Park to the existing water main in Royal Poinciana Plaza parking lot. This requires crossing Royal Poinciana Way just east of the Henry Flagler statue. While this work is planned to be constructed during the day in four phases, closing one lane of traffic on each phase, we may find it advantageous to allow night time work to minimize traffic impacts. Town staff is requesting that Town Council allow staff to permit limited night time work on the water main crossing to minimize traffic impacts. Night time work may be requested during the water main tie in work as water mains may need to be temporarily shut down and the impacts to Town residents and businesses will be less if work occurs after midnight.

Attachment

cc: Eric Brown, P.E., Assistant Director of Public Works
James M. Bowser, P.E., Town Engineer

CORNERSTONE BUSINESSES, INC.



January 21, 2011

Jim Bowser, P.E.
Town of Palm Beach
951 Okeechobee Rd.
West Palm Beach, FL 33401
Ref: Flagler Drive 24" Subaqueous Water Main Crossing

Mr. Bowser,

We'd like to request additional working hours for upcoming portions of this project.

The first request is for a possible 24 hours operation during the pull back of the water main which is expected to occur between 5/15 and 6/5. A more definitive date can be provided once further into the reaming process. The extended working hours is only being request during the pull of the water main only as operations cannot cease until pull is completed.

The second request is for night time operations for the installation of the 24" water main across Royal Poinciana Way which is expected to occur between 5/20 and 6/3. Although the majority of this work is anticipated to occur during normal working hours, this request for nighttime work might be needed due to the impact of vehicular traffic on Royal Poinciana Way and also during the cut over of the water main when less people will be impacted.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Hubbard".

Jim Hubbard
Project Manager

cc: Laura Le City of West Palm Beach

TOWN OF PALM BEACH

Town Council Meeting on: May 10, 2011

Section of Agenda

Regular Agenda - New Business

Agenda Title

Commencement of Preliminary Steps Necessary for Implementation of Modified Town Pension Plans.

Presenter

Jane Struder, Director of Finance

Supporting Documents

- Memorandum Dated April 29, 2011, from Jane Struder, Finance Director

TOWN OF PALM BEACH

Information for Town Council Meeting on: May 10, 2011

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: Jane Struder, Finance Director

Re: Request for Contingency Allocation for Implementation Costs Associated with the Hybrid Pension Plan

Date: April 29, 2011

STAFF RECOMMENDATION

Staff recommends that the Town Council authorize a contingency allocation of \$67,750 for costs associated with the implementation of the hybrid pension plan and defined contribution plan.

GENERAL INFORMATION

Subject to the continuing collective bargaining process and related future decisions of the Town Council, it is anticipated that implementation of a hybrid pension plan including a defined contribution plan will occur on October 1, 2011. In order to be prepared for the implementation process, we are requesting funds for attorney fees for the preparation of an Ordinance(s) and review of plan documents, actuary fees for impact statements and pension calculations, and funding for a consultant to assist in the RFP and hiring process for a plan administrator for the defined contribution plan.

Staff has prepared a draft RFP for plan administration, investment and record keeping services for a 401(a) defined contribution retirement plan. Due to the complexity and importance of hiring a well qualified company for this purpose, staff feels it is very important to obtain assistance with this process. Three bids were received from Callan Associates, PFM Asset Management and Prime Buchholz. All three firms currently perform services for the Town for the pension funds and the investment of the Town's surplus funds. Prime Buchholz was the low bid for the RFP review and selection process at \$20,000. We feel that Prime Buchholz is well qualified to assist us with this process and recommend that we contract with them for this service.

We are also recommending that the Town Council approve a selection committee to review the proposals submitted for the RFP for the plan administration services for the 401(a) Defined Contribution plan consisting of:

- Danielle Olson, Human Resources Director
- Jane Struder, Finance Director
- William Hanes, Plan Administrator for the Police Officer and Firefighter Pension Plans

- Mr. Ray Snow, Chairman of the Police Officer Pension Board
- Brett Madison, General Employee Representative
- George Frick, Police Officer Representative
- Jayson French, Firefighter Representative

The consultant, Prime Buchholz, will work with the selection committee in the RFP review process.

Once the RFP process has been completed and a plan administrator has been selected, staff will return to the Town Council for approval of a contract for plan administration services.

In addition we are requesting an appropriation of \$17,750 for services provided by the pension actuary Gabriel, Roeder, Smith and Company to prepare Actuarial Impact Statements related to the modification of the pension benefits and to confirm the accrued benefit under the current plan for each employee. These tasks will occur once the Ordinance for the new plan is adopted.

Funds will also be needed for attorney fees for drafting an Ordinance(s) for the revisions to the pension system and review and assistance with the plan documents for the new hybrid system. We are requesting \$30,000 for this purpose.

FUNDING/FISCAL IMPACT

As set forth herein, the attorney, actuary fees and consultant costs related to the modification of the pension system and the selection of a plan administrator for the defined contribution program are estimated to be \$67,750.

jls

TOWN OF PALM BEACH

Town Council Meeting on: May 10, 2011

Section of Agenda

Ordinances - Second Reading

Agenda Title

ORDINANCE NO. 15-11 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 114 Taxation, Article Ii, Local Business Tax, At Section 114-43 Schedule, So As To Amend The Fees Delineated For Each Business, Profession Or Occupation; Expanding The Schedule For Apartments To Include Rental Dwellings; Amending Section 114-80 Relating To Exemption For Churches To Amend The Exemption To Apply To Houses Of Worship; Amending Article Iv, Telecommunications Services Public Service Tax By Deleting Sections 114-121 Through 114-126 And Providing That Telecommunication Services Public Service Tax Shall Be In Accordance With Chapter 202, Florida Statutes, The Communications Services Tax Simplification Law; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Ordinance No. 15-11

ORDINANCE NO. 15 - 11

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 114 TAXATION, ARTICLE II, LOCAL BUSINESS TAX, AT SECTION 114-43 SCHEDULE, SO AS TO AMEND THE FEES DELINEATED FOR EACH BUSINESS, PROFESSION OR OCCUPATION; EXPANDING THE SCHEDULE FOR APARTMENTS TO INCLUDE RENTAL DWELLINGS; AMENDING SECTION 114-80 RELATING TO EXEMPTION FOR CHURCHES TO AMEND THE EXEMPTION TO APPLY TO HOUSES OF WORSHIP; AMENDING ARTICLE IV, TELECOMMUNICATIONS SERVICES PUBLIC SERVICE TAX BY DELETING SECTIONS 114-121 THROUGH 114-126 AND PROVIDING THAT TELECOMMUNICATION SERVICES PUBLIC SERVICE TAX SHALL BE IN ACCORDANCE WITH CHAPTER 202, FLORIDA STATUTES, THE COMMUNICATIONS SERVICES TAX SIMPLIFICATION LAW; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, FLORIDA, AS FOLLOWS:

SECTION 1. Chapter 114 of the Town Code of Ordinances relating to Local Business Taxes, is hereby amended at Section 114-43, SCHEDULE, by increasing Business Taxes as set forth herein.

Sec. 114-43. Schedule.

A business tax is hereby levied upon and shall be collected from every person, firm or corporation exercising the privileges or carrying on or engaging in the business, professions or occupations hereinafter specifically enumerated, as fixed hereinafter; each of such amounts, unless otherwise specifically stated, being the amounts payable as a business tax for exercising such privilege or for carrying on or engaging in such business, profession or occupation mentioned, for each year.

A

Abstractors of title	\$ 365.00
Accountant, auditor, C.P.A. firm (includes one professional)	\$ 365.00
Accountant, auditor, C.P.A.	\$ 365.00
Adult entertainment	\$ 1,052.00
Administrative office	\$ 295.00
Answer phone (support business services)	\$ 365.00
Apartments, (see rental dwellings)	
Architect	\$ 365.00
Art gallery, up to 400 sq. ft	\$ 154.00
Art gallery, 401 - 2,000 sq. ft	\$ 365.00
Art gallery, 2,001 - 4,000 sq. ft	\$ 421.00
Art gallery, 4,001 - 8,000 sq. ft	\$ 841.00
Art gallery, over 8,000 sq. ft	\$ 1,264.00
Artist	\$ 280.00
Astrologer, phrenologist, crystal reading, palm reader, soothsayer, fortune teller and clairvoyant	\$ 382.00

B

Bakery	\$ 181.00
Bank, trust company	\$ 1,054.00
Barber	\$ 139.50
Barber, shop (Includes one barber)	\$ 139.50
Beauty shop (see cosmetology salon)	
Bicycle shop, rentals	\$ 139.50
Bicycle shop, sales (see merchants)	
Boat dealer (yacht broker)	\$ 280.00
Broadcasting station (radio or TV)	\$ 406.00
Broker	\$ 365.00

Brokerage/investment company (includes one broker)	\$	1,054.00
Business office only (two people maximum)	\$	181.50

C

Car rental agency	\$	561.00
Catering	\$	181.50
Chiropractor	\$	365.00
Coin-operated machines (inside, exclusive of newsracks)	\$	97.50
Consultant	\$	365.00
Contractor office (construction)	\$	406.00
Cosmetologist, individual	\$	139.50
Cosmetology salon (includes one cosmetologist)	\$	139.50

D

Dance instructor	\$	181.50
Dance studio/school	\$	365.00
Dentist	\$	365.00
Dining room, 40 chairs or less (hotel, business, etc.)	\$	181.50
Plus, for each chair up to 40	\$	2.70
Dining room, over 40 chairs (hotel, business, etc.)	\$	365.00
Plus, for every chair	\$	2.60
Dining, club (see dining room)		

E

Electric light company	\$	316.00
Employment agency	\$	365.00
Engineer	\$	365.00

F

Facialist, registered (FA) or specialist (FB)	\$	42.00
Full specialist	\$	42.00
Full registration	\$	42.00

G

Gas company	\$	316.00
Golf course	\$	406.00

H

Health studio	\$	365.00
Hotel, 10 rooms or less	\$	55.50
Hotel, more than 10 rooms	\$	55.50
Plus each additional room	\$	6.90

I

Insurance broker, company/agency	\$	365.00
Insurance salesperson	\$	181.50
Interior decorator	\$	365.00
Interior designer	\$	365.00

J

Jeweler	\$	632.00
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L

Law firm (includes one lawyer)	\$	365.00
Lawyer	\$	365.00

M

Massage therapist, individual	\$	365.00
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Massage establishment (includes one massage therapist)	\$	365.00
Merchant, up to 400 sq. ft.	\$	154.00
Merchant, 401 - 2,000 sq. ft.	\$	365.00
Merchant, 2,001 - 4,000 sq. ft.	\$	421.00
Merchant, 4,001 - 8,000 sq. ft.	\$	841.00
Merchant, over 8,000 sq. ft.	\$	1,264.00
Mortgage broker	\$	365.00
Mortgage company	\$	365.00
Motor scooter and motorcycle rental	\$	1,139.00
Music service	\$	365.00

N

Nail registration (FV) or nail specialist (FT)	\$	42.00
Newspaper - See publisher		
Nightclub with dance floor	\$	1,052.00
Nightclub without dance floor	\$	688.50
Nurse	\$	365.00
Nursing agency (includes one nurse)	\$	365.00

O

Optician	\$	365.00
Optometrist	\$	365.00

P

Parking garage	\$	365.00
Parking lot (see Chapter 22, Article VI, Parking Lots for further provisions)	\$	181.50
Pharmacist (individual)	\$	365.00
Pharmacy (includes one pharmacist)	\$	365.00
Photographer	\$	181.50
Physician	\$	365.00

Printing company	\$	365.00
Profession not listed	\$	365.00
Property management	\$	181.50
Public relations	\$	365.00
Publisher	\$	365.00

R

Real estate broker	\$	365.00
Real estate salesperson	\$	181.50
Rental dwellings, per unit (minimum two units)	\$	35.50
Repair shop (other than auto)	\$	365.00
Restaurant, 40 chairs or less	\$	181.50
Plus, for every chair up to 40	\$	2.70
Restaurant, more than 40 chairs	\$	365.00
Plus, for each chair	\$	2.70

S

Savings and loan association	\$	1,054.00
School, private	\$	365.00
Security agency, private (includes one security officer)	\$	181.50
Security officer, private	\$	27.50
Service station (includes auto repair)	\$	406.00
Services, unlisted	\$	181.50
Swimming pools, public	\$	365.00

T

Talent agency	\$	365.00
Taxicabs, each company or stand	\$	280.00
Telecommunications company (formerly telegraph)	\$	316.00

Telephone company	\$	316.00
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Nothing in this chapter will be construed as requiring a license tax for coin-operated telephones

Theater	\$	1,264.00
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Plus each seat	\$	1.35
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Travel bureau/agency	\$	365.00
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U

Unclassified business not listed	\$	295.00
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V

Veterinarian	\$	365.00
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Veterinarian establishment	\$	365.00
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Section 2. The Code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 114, Taxation; Article III, Public Service Tax on Utilities; Section 114-80, to read as follows:

"Sec. 114-80. Exemption for houses of worship.

The tax levied by this article shall not apply to purchases by any recognized house of worship for use exclusively for house of worship purposes."

Section 3. The Code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 114, Taxation; Article IV, Telecommunications Services Public Service Tax, to read as follows:

**"ARTICLE IV. TELECOMMUNICATIONS
SERVICES PUBLIC SERVICE TAX***

Telecommunications services public service tax shall be in accordance with Chapter 202, Florida Statutes, the Communications Services Tax Simplification Law."

Section 4. Severability.

If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

Section 5. Repeal of Ordinances in Conflict.

All other ordinances of the Town of Palm Beach, Florida, or parts thereof which conflict with this or any part of this Ordinance are hereby repealed.

Section 6. Codification.

This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach.

Section 7. Effective Date.

This Ordinance shall take effect immediately upon its passage and approval, as provided by law.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this 12th day of April, 2011, and for second and final reading on this 10th day of May, 2011.

Gail L. Coniglio, Mayor

David A. Rosow, Town Council President

Robert N. Wildrick, President Pro Tem

William J. Diamond, Town Council Member

ATTEST:

Richard M. Kleid, Town Council Member

Susan A. Owens, Town Clerk

Michael J. Pucillo, Town Council Member