



TOWN OF PALM BEACH

TOWN MANAGER'S OFFICE

**TENTATIVE:
SUBJECT TO
REVISION**

TOWN COUNCIL MEETING

**EMERGENCY OPERATIONS CENTER (EOC)
THIRD FLOOR, CENTRAL FIRE-RESCUE STATION
355 SOUTH COUNTY ROAD**

AGENDA

MARCH 9, 2010

9:30 A.M.

For information regarding procedures for public participation at Town Council Meetings, please refer to the end of this agenda.

The progress of this meeting may be monitored by visiting the Town's website (www.townofpalmbeach.com) and selecting "Live Meeting Audio" under the "Your Government" tab. 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."

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. 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.

- I. CALL TO ORDER AND ROLL CALL
- II. INVOCATION AND PLEDGE OF ALLEGIANCE

III. PRESENTATIONS

- A. Recognition of Thomas M. Youchak, Architectural Commis
March 2004 Through November2009.
- B. Information About the US Census [Pedro M. Guilarte, Partnership Specialist, US
Department of Commerce-US Census Bureau] Page 9
- C. Presentations by Applicants for Architectural Commission. Page 11
- D. Presentations by Landmarks Preservation Commission. Page 14

IV. COMMENTS OF MAYOR JACK McDONALD

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: FEBRUARY 9, 2010 Page 20
APPROVAL OF THE MINUTES OF THE TOWN COUNCIL MEETING
- B. MINUTES: FEBRUARY 9, 2010 Page 47
APPROVAL OF THE MINUTES OF THE SPECIAL TOWN COUNCIL
MEETING-ATTORNEY/CLIENT SESSION-TOWN OF PALM BEACH VS
THE UNITED STATES OF AMERICA
- C. MINUTES: FEBRUARY 10, 2010 Page 51
APPROVAL OF THE MINUTES OF THE TOWN COUNCIL MEETING
- D. MINUTES: FEBRUARY 10, 2010 Page 75
APPROVAL OF THE MINUTES OF THE SPECIAL TOWN COUNCIL
MEETING ATTORNEY/CLIENT SESSION-MENGONI VS TOWN OF PALM
BEACH
- E. APPROVAL OF MAJOR MATTERS CONSIDERED BY THE Page 78
ARCHITECTURAL COMMISSION AT ITS MEETING ON
FEBRUARY 24, 2010.

F. RESOLUTIONS

1. RESOLUTION NO. 26-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Adding Newly Designated Historic or Specimen Trees from Properties Located Within the Town of Palm Beach; Providing for the Recording of Said 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] Page 90
2. RESOLUTION NO. 29-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Contract to D.B. Ecological Services, Inc, for Sea Turtle Monitoring for the Town of Palm Beach, Sealed Bid Number 2007-21.
[H. Paul Brazil, Director of Public Works] Page 96
3. RESOLUTION NO. 30-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Purchase of Three (3) Police Patrol Vehicles as Previously Considered and Approved by the Town Council During the FY2010 Budget Process and Including in the Town's Equipment Replacement Program.
[Kirk W. Blouin, Police Chief] Page 103
4. RESOLUTION NO. 31-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Purchase Order to Murray Logan Construction for D-9 Storm Water Pump Station Improvements Establishing a Construction Phase Budget for Said Improvements, and Authorizing the Tow Manager to Take Actions Necessary to Complete Said Improvements.
[H. Paul Brazil, Director of Public Works] Page 115
5. RESOLUTION NO. 32-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Purchase Order to Kimley-Horn and Associations for the D-10 Storm Water Pump Station Design Services for the Town of Palm Beach.
[H. Paul Brazil, Director of Public Works] Page 120
6. RESOLUTION NO. 34-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Execution of a Maintenance Contract Between Bolo Corporation and the Town of Palm Beach Providing Service and Maintenance to the License Plate Reader (LPR) System Located in the Town of Palm Beach, Florida.
[Kirk W. Blouin, Police Chief] Page 129

7.	<u>RESOLUTION NO. 36-10</u> A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Recreation Department Fees for Fiscal Year 2010. [Jay Boodheshwar, Director of Recreation]	Page 132
G.	Other	
1.	Approval of Settlement in the Matter of Mengoni vs Town of Palm Beach. [John C. Randolph, Town Attorney]	Page 137
2.	Approval of FY11 Budget Calendar. [Jane Struder, Director of Finance]	Page 140
3.	Acceptance of a Donation from the Palm Beach Police Foundation in the Amount of \$70,000 for a New Weapons System. [Kirk W. Blouin, Police Chief]	Page 145
4.	Approval of Certificate of Correction of the Non-Ad Valorem Assessment Roll for the Worth Avenue Improvement Project. [Thomas G. Bradford, Deputy Town Manager]	Page 148
IX.	BOARD/COMMISSION ANNUAL REPORT	
A.	Architectural Commission. [William P. Feldkamp, Chair and John S. Page, Director of Planning, Zoning, and Building]	Page 152
X.	COMMITTEE REPORTS	
A.	Finance and Taxation Committee Meeting of February 18, 2010. [Robert N. Wildrick, Town Council Member]	Page 156
B.	Ordinances, Rules, and Standards Committee Meeting of February 26, 2010. [William J. Diamond, Town Council Member]	Page 180
XI.	REGULAR AGENDA	
A.	Old Business	
1.	Island Cats Report Regarding Status of Funds and Fundraising Plan. [David Leavitt]	

B. New Business

1. Investment Policies. [Jane Struder, Director of Finance]
TIME CERTAIN: 11:00 A.M.

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a. RESOLUTION NO. 33-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Adopting a New Investment Policy for the Town; Rescinding Resolution No. 23-01, as Amended; Providing an Effective Date.

b. ORDINANCE NO. 7-10 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 2 of the Town Code of Ordinances Relating to Administration, at Article VIII, Investment Policy, as Amended, in its Entirety; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.

c. RESOLUTION NO. 35-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Adopting Amendments to the Statement of Investment Policy for the OPEB Trust Board of Trustees of the Town of Palm Beach Pursuant to Section 82-153 of the Code of Ordinances of the Town of Palm Beach; Providing an Effective Date.

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2. Request for Permission for Commercial Establishments to Display Sale Signs During the Remainder of the Current Winter Season. [Patti Sans, President, Greater South County Road Association and William Cummings, President, Royal Poinciana Way Association]
TIME CERTAIN: 10:45 A.M.

3. Proposed Royal Poinciana Way Car Show.
[Thomas G. Bradford, Deputy Town Manager]

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4. RESOLUTION NO. 28-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Purchase Order to Kimley-Horn and Associates for a Sewage Force Main Subaqueous Crossing and Sewage Pump Station Analysis for the Town of Palm Beach. [H. Paul Brazil, Director of Public Works]

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5. Strategic Plan—Annual Review of Implementation.
[John S. Page, Director of Planning, Zoning, and Building]

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6. Non-action of Landmarks Preservation Commission.
[Richard M. Kleid, Town Council Member]
7. Landmarks Preservation Commission Appointments. Page 269
[John S. Page, Director of Planning, Zoning, and Building]
8. Architectural Commission Appointments. Page 281
[John S. Page, Director of Planning, Zoning, and Building]

XII. ORDINANCES

A. Second Reading

1. ORDINANCE NO. 5-10 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 82 of the Town Code of Ordinances at Subdivision IV, Police Officers, Section 82-110(c), Police Officer Board of Trustees, to Provide for Quarterly Meetings; Amending Section 82-111, Term of Office, to Provide for Staggered Terms; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date. [William Hanes, Pension Administrator] Page 292
2. ORDINANCE NO. 6-10 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Providing for an Amendment to the Town's Budgets Adopted for the Fiscal Year Commencing October 1, 2009, Providing an Effective Date. [Jane Struder, Director of Finance] Page 296

B. First Reading

1. ORDINANCE NO. 8-10 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 22, Businesses, Article V, Entertainment Establishments, at Section 22-273 So as to Include, in Addition to the Reference to Residential Districts, a Reference to Residential Units Within 500 Feet in Any Direction of the Entertainment Establishment; Amending Section 22-274 So as to Modify the Reference to Building to the Premises in Which Said Activities Are Conducted, Amending Section 22-275 to Also Reference the Premises as Opposed to the Confines of a Building; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date. [John C. Randolph, Town Attorney] Page 305

2. ORDINANCE NO. 9-10 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 82 of the Town Code of Ordinances at Subdivision III, Firefighters, Section 82-90(c), Firefighter Board of Trustees, to Provide for Quarterly Meeting; Amending Section 82-91, Term of Office, to Provide for Staggered Terms; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.
[William P. Hanes, Administrator for the Firefighter Board of Trustees]

XIII. ANY OTHER MATTERS

XIV. ADJOURNMENT

PLEASE TAKE NOTE:

- Note 1: 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 proceeding. 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.
- Note 2: 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.
- Note 3: 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.
- Note 4: 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

Town Council Meeting on: March 9, 2010

Section of Agenda

Presentations

Agenda Title

US Census Presentation. [Pedro M. Guilarte, Partnership Specialist, US Department of Commerce-US Census Bureau]

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Memorandum dated February 18, 2010, from John Page

TOWN OF PALM BEACH

Information for the Town Council Meeting on: March 9, 2010

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: John Page, Director of Planning, Zoning and Building

Re: U.S. Census 2010 Report/Presentation

Date: February 18, 2010

STAFF RECOMMENDATION

No Town Council action is required on this matter.

GENERAL INFORMATION

U.S. Census 2010 is quickly approaching, and Census questionnaires will be mailed out to Town residents next month. In an effort to provide a better understanding of the Census, the Town has issued a press release regarding the Census, and placed a Census informational flyer on the Town's website.

To further our knowledge of the upcoming Census, Pedro M. Guilarte from the U.S. Department of Commerce - U.S. Census Bureau will make a succinct presentation at the March 9, 2010 Town Council meeting. Mr. Guilarte will address when and how the Census will be conducted, and the benefits of full participation in the Census. Mr. Guilarte will also be available to answer any questions.

JP/jl

cc: John Lindgren, AICP, Planning Administrator

TOWN OF PALM BEACH

Town Council Meeting on: March 9, 2010

Section of Agenda

Presentations

Agenda Title

Presentations by Applicants for Architectural Commission.

Presenter

Peter B. Elwell, Town Manager

Supporting Documents

- Letter dated March 3, 2010, from Martin D. Gruss
- Letter dated March 1, 2010, from Robert J. Vila

March 3, 2010

GRÜSS & CO

Gruss Family Office

Mayor and Town Council
Town of Palm Beach
360 South County Road
Palm Beach, Florida 33480

Dear Mayor and Town Council,

Please excuse my absence from the Arcorn meeting on March 9, 2010.
My dear friend, Winston S. Churchill, has passed away and I will be attending his funeral in England next week.

I believe that I am qualified to be a member of the Town of Palm Beach Architectural Commission due to my long standing interest in art and architecture. I have collected art for more than 30 years and have commissioned at least 6 major residential projects, working with terrifically talented architects and interior designers.

While I would never impose my personal likes or dislikes on another's design, I am familiar with the architectural styles the Town of Palm Beach encourages.

Again, I apologize for my absence and am looking forward to discussing this position further at another time, if necessary.

Sincerely,



Martin D. Gruss
1574 South Ocean Blvd.
Palm Beach, FL 33480

ARCOM
Bob Vila
to:
townmanager
03/01/2010 03:52 PM
[Show Details](#)

History: This message has been forwarded.

Mr. Peter Elwell
Town Manager
Town of Palm Beach

Dear Mr. Elwell:

I regret that I will be unable to attend the meeting on the morning of Tuesday March 9th as I will be out of town until that evening. Nevertheless I hope the council will extend my appointment to the Architectural commission for the coming year. As a Palm Beach resident I have great appreciation for the volunteerism that characterises the management of the town and am happy to form a part of that spirit. I bring nearly forty years of experience in the field of design and construction with a particular emphasis on historic homes and restoration. The work of Arcom is of great importance in preserving the many qualities that make Palm Beach the beautiful place that it is.

Sincerely,

Robert J. Vila

TOWN OF PALM BEACH

Town Council Meeting on: March 9, 2010

Section of Agenda

Presentations

Agenda Title

Presentations by Landmarks Preservation Commission.

Presenter

Peter B. Elwell, Town Manager

Supporting Documents

- Letter dated March 4, 2010, from Charles S. Roberts
- Letter dated February 26, 2010, from Steven Stolman
- E-mail dated March 4, 2010, from Steven Stolman

Charles S. Roberts
301 Australian Avenue, Apt. 209
Palm Beach, Florida 33480

March 4, 2010

The Honorable Mayor Jack McDonald
The Honorable Council Member David A. Rosow
The Honorable Council Member Gail Coniglio
The Honorable Council Member William J. Diamond
The Honorable Council Member Richard M. Kleid
The Honorable Council Member Robert N. Wildrick

Dear Mayor and Town Council:

I am aware of the accusations and malicious gossip being spread by Mr. Lowell Levine concerning me and several other Landmark Preservation Commission members and applicants. Our Town was founded upon the principles of civility and professionalism with free and open debate among our friends and neighbors without the use of coercion, intimidation or personal attacks.

I am truly disappointed by Mr. Levine's efforts to publicly disparage and defame anyone he views as standing in the way of his own personal agenda. The allegations being made by Mr. Levine about me and the other Landmark Commission members and applicants, Hazel Rubin, Wendy Victor, and Steven Stolman, are without merit and do not warrant any further comment.

Should I be reappointed to the Landmark Preservation Commission, I will treat the Royal Poinciana Plaza application as I have treated every application that has come before me in the last three years. I expect a professional and honest debate where all of the issues can be discussed. My decisions on the Landmark Commission have always been and will continue to be based on protecting the Town, its landmarked properties and their owners.

Mayor and Town Council
March 4, 2010
Page Two

As I have done for the last three years, I will hear all of the evidence, apply the appropriate laws and ordinances and make the decision that I believe is in the best interest of the Town. I have been honored to serve the Town and will continue to do so to the best of my ability, if I am reappointed to the Landmark Preservation Commission.

Sincerely,

A handwritten signature in black ink, appearing to be 'Charles S. Roberts', written over a horizontal line.

Charles S. Roberts

cc: Mr. Peter B. Elwell
Mr. John C. Randolph, Esq.
Mr. John Page
Ms. Joanna Cunningham

STEVEN STOLMAN

2275 SOUTH OCEAN BOULEVARD, No. 209A
PALM BEACH, FLORIDA 33480

His Honor the Mayor
Members of the Town Council
Town of Palm Beach
360 South County Road
Palm Beach, FL 33480

February 26, 2010

Dear Mr. Mayor and Esteemed Town Council Members,

It is with humility and gratitude that I write to you in light of possible service to our town, one that I love so much.

I arrived in Palm Beach in 1995 as a newly minted merchant after 15 years on New York's Seventh Avenue. For more than a decade, I enjoyed serving our community as a fashion designer and retailer- but more importantly, I immediately felt welcomed and embraced by the community. I was neither a millionaire nor a mogul, yet was treated with such grace and respect by so many who had achieved such incredible successes in their lives. I observed, I experienced- and with the passage of time, I learned how to become a citizen rather than just a resident. When Lesly Smith first inquired about my interests in serving on a review committee many years ago, I was flattered beyond belief. How wonderful to be able to draw on my education and experiences to make a positive contribution to the town that I was so proud to call home!

I was privileged to have been given a unique education. While my formal degree is a BFA from the Parsons School of Design, it was built on Carnegie Mellon University's College of Fine Arts foundation program in graphic design and Northwestern University's School of Speech, Department of Communication Studies. I worked for a variety of companies in the fashion industry- from small manufacturers to large public companies until I opened my own business which included both manufacturing and retail. Following that, I entered the non-profit sector where I continue to serve in a variety of capacities- specifically development and special events.

Public service is an aspect of life ingrained upon me by my parents, who I am lucky enough to have living close by in Palm Beach Gardens. Following their lead, I became active in the Opera Company of Boston, the Kips Bay Boys & Girls Club, Southampton Hospital and the Southampton Fresh Air Home. In Palm Beach, I was an early leader of the Young Friends of the Norton Museum, the Ann Norton Sculpture Garden and my true love, the Historical Society of Palm Beach County, where I served on the Board of

Governors for 6 years until term limits required me to step down last year. I continue to support this organization along with the Preservation Foundation of Palm Beach.

I am especially interested in the many facets that define “a sense of place”- from the preservation, restoration and conservation of the many elements that give our town its unique character and provenance to the exciting challenges that the future presents as we, as a town and a society, move forward through life’s journey. I have been a vocal advocate of sensitive urban planning- something that I became interested in during college when new ways of thinking about how cities should look and function began to emerge- in many ways resulting in so many positive human experiences that we now take for granted. I am especially interested in how structures are programmed- whether private or public- so that buildings become more than just blocks of concrete, but rather living, breathing partners that allow society to function with dignity, responsibility, elegance, ease and delight.

Due to my education, work experience and strong commitment to worthy causes, I sincerely hope that I could and would contribute whatever may be relevant from the point of view and hopefully rational thinking of a professional designer, the consideration and dedication of a businessperson who has worked serving others and the spirit, common sense and courtesy of an honest, everyday citizen. I look forward to having the opportunity to put my hand and heart in whenever and wherever it is needed in the best interests of our town and its people.

Respectfully,

Steven Stolman

Re: Landmark Preservation Commission Application

sstolman

to:

croberts, jmcdonald, drosow, gconiglio, WDiamond, rkleid, rwildrick

03/04/2010 10:41 AM

Cc:

pelwell, jrandolph, srandolph, jpage,

jcunningham, wendyvictor, HGR36, council

Show Details

History: This message has been forwarded.

Gentle Neighbors,

I have spoken to Mr. Randolph personally to insure him that I am unfettered by this attack. And while I am usually hesitant to even acknowledge the stuff of Mr. Levine's email (who, by the way, I do not know,) I guess I must invoke the time-honored declaration of "I am not now, nor have I ever been," on the payroll of the Sterling Organization.

With humility but perhaps a little pride, I hope that the rest of my ability to be of service to our town speaks for itself.

Sincerely,

Steven Stolman

-----Original Message-----

From: Charlie Roberts <croberts@robertspropertiesinc.com>

To: jmcdonald@townofpalmbeach.com; drosow@townofpalmbeach.com; gconiglio@townofpalmbeach.com; WDiamond@TownofPalmBeach.com; rkleid@townofpalmbeach.com; rwildrick@townofpalmbeach.com

Cc: 'David A Rosow' <dar@rosow.com>; david.rosow@rosow.com; robertwildrick@hotmail.com;

Kleid561@aol.com; wid2332@aol.com; gconiglio1@aol.com; pelwell@townofpalmbeach.com; jrandolph@jones-
n; jpage@townofpalmbeach.com;

council@townofpalmbeach.com; wendyvictor@msn.com; HGR36@aol.com; sstolman@aol.com;

Sent: Thu, Mar 4, 2010 10:08 am

Subject: Landmark Preservation Commission Application

Please see attached letter.

Sincerely,

Charles S. Roberts

TOWN OF PALM BEACH

Town Council Meeting on: March 9, 2010

Section of Agenda

Consent Agenda

Agenda Title

Approval of the Minutes of the Town Council Meeting held on February 09, 2010

Presenter

Joanna Cunningham, Town Clerk

Supporting Documents

- Minutes of the Town Council Meeting held on February 09, 2010

**MINUTES OF THE REGULAR TOWN COUNCIL MEETING
HELD ON TUESDAY, FEBRUARY 9, 2010**

I. CALL TO ORDER AND ROLL CALL

The Town Council Meeting was called to order on Tuesday, February 9, 2010, at 9:30 a.m., at 355 S. County Road, Palm Beach, Florida 33480, in the Central Fire Station, in the Emergency Operations Center (EOC). On roll call, all elected officials were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Town Clerk Cunningham gave the Invocation. President Rosow led the Pledge of Allegiance.

III. APPROVAL OF AGENDA (ITEMS IV. AND V)

Motion to approve the Agenda Items IV and V made by Council President Pro Tem Coniglio and seconded by Council Member Kleid. On roll call, the motion carried unanimously.

IV. NEW BUSINESS

A. RESOLUTION NO. 16-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Declaring the Results of the Election Held on the 2nd Day of February 2010. [Joanna Cunningham, Town Clerk]

Town Attorney Randolph read Resolution No. 16-10, by title, as printed above. In addition, he announced the following named candidates were declared to be elected to the office of Town Council Person Group One for a term of two years, Town Council Group Two for a term of two years, and Town Council Group Three, for a term of two years:

Town Council Person Group One: Richard M. Kleid
Town Council Person Group Two: David A. Rosow
Town Council Person Group Three: Robert Wildrick

Motion to approve Resolution No. 16-10 made by Council President Pro Tem Coniglio and seconded by Council Member Diamond. On roll call, the motion carried unanimously.

V. ADJOURN SINE DIE

(Mayor Becomes Presiding Officer)

Mayor McDonald welcomed everyone and introduced Judge Peter Blanc.

VI. SWEARING IN OF ELECTED OFFICIALS - The Honorable Judge Peter D. Blanc

Council Member Kleid was sworn in by Judge Blanc. His wife, Rhoda, was also present.

Council Member Rosow was sworn in by Judge Blanc, while his wife, Jeanne, held the Bible.

Council Member Wildrick was sworn in by Judge Blanc.

VII. ORGANIZATIONAL ITEMS

A. Election of Town Council President - Pursuant to Section 3.01 of the Town Charter

Council President Rosow was unanimously re-elected as Town Council President.

(Town Council President Becomes Presiding Officer)

Mayor McDonald announced that Council Member Rosow was re-elected President for this term. The meeting was turned over to Council President Rosow.

B. Election of Town Council President Pro Tem - Pursuant to Section 3.01 of the Town Charter

Council President Pro Tem Coniglio was re-elected as Council President Pro Tem.

VIII. CALL TO ORDER AND ROLL CALL

The Town Council Meeting was again called to order on Tuesday, February 9, 2010. On roll call, all elected officials were found to be present.

IX. PRESENTATIONS

A. Recognition of Thomas M. Youchak, Architectural Commission, From March 2004 Through November 2009.

This item was deferred until the March 9, 2010 Town Council Meeting.

B. Recognition of Scott Hicks, Shore Protection Board, From December 2008 Through

December 2009.

Mayor McDonald recognized Mr. Scott Hicks, who was in the audience, for his service on the Shore Protection Board from December 2008 through December 2009.

C. Recognition of Richard A. Raffo, Shore Protection Board, From December 2008 Through December 2009.

Mayor McDonald recognized Mr. Richard Raffo, who was in the audience, for his service on the Shore Protection Board from December 2008 through December 2009. Mayor McDonald noted that Mr. Raffo had served on the initial Shore Protection Board as well. He was thanked for his service on the Board.

Town Manager Elwell announced that there were plaques, and he apologized to both recipients for not having them in the chambers. He assured them that they would receive them shortly for proper recognition of their service.

X. COMMENTS OF MAYOR JACK McDONALD

Mayor McDonald began his comments with remembering his friend and colleague, Bill Brooks. They served together on the Town Council for eight years. He served as Council President of the Council for three years and he led a harmonious and productive council. Civility and teamwork was important. They respected each other, saw a purpose greater than their own ambition and worked as a team. Mr. Brooks saw community service as an end in itself with no desire for recognition or personal gain. Mayor McDonald did not remember him ever taking credit for an accomplishment. He always described them as a team effort. He could have praised himself, as he was responsible for initiating the Town Strategic Plan, but to him, serving on Town Council was simply public service. He left a legacy, and it was not just a legacy of accomplishments, although he certainly had them, but he was a successful businessman and CEO not just in Palm Beach, but in Palm Beach County. But that was not how Mr. Brooks' life would be measured. He left a legacy of hard work, respect for all, cared about others and goodwill and friends. He cared about the Town and its residents. During his illness, and around the same time last year, he was carrying a sign for him at St. Edward's Church. His memorial service was also at St. Edward's Church, and in an overflowed church, there was reflected the love and respect the community held for an unselfish and devoted leader. Mr. Brooks was not a politician and he did not even win his last political race, but he won life's ultimate public race. When you witness such an outpouring of love and respect from the community, you know Mr. Brooks got his legacy right. Mayor McDonald continued that it was not the power or money we accumulated in a lifetime, but it is the legacy we leave our family and community that measure us. Mr. Brooks had a moral compass in the community that was recognized. He touched so many lives in a positive way. As elected officials, we should strive to lead like he did. He left the world as a giant. Mayor McDonald will cherish his smile, his service, and his legacy during his lifetime. His service provided a role model to follow, and he asked the audience to join him in a moment of silence.

Regarding the agenda for today, Mayor McDonald announced that Gerry Goldsmith, the loser in last year's Mayoral election, is suing the Town of Palm Beach, and the Mayor over last year's election results. Today there are Oral arguments in the case and he must leave to attend the hearing after his comments. He had some requests to pull or move items on the agenda until he was present to hear them. He asked that Consent Item XIV.F.1 be pulled and moved to the Regular Agenda. He also asked that Regular Agenda Item XVI.B.2 Commission objectivity to be handled in the following order of preference: Either withdrawal by the proposer; the Town Council remove the item from the agenda; or the discussion should wait until the Mayor returned from Mr. Goldsmith's lawsuit, which should be before lunch. He felt it was important for him to address the issue and his absence was due to litigation resulting from his service as Mayor.

XI. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

Council President Pro Tem Coniglio thanked Mayor McDonald for his well said words. She offered her deepest love and congratulations to him for the comments. She stated that Bill Brooks was a true mentor and friend to the entire Town of Palm Beach.

In keeping with the Mayor and Town Council's directive to form a Town tax force, President Pro Tem Coniglio proposed designating Council Member Kleid as Chair to provide a voice to other communities. She was particularly encouraged by a letter received by Mayor Gerard of Manalapan in support of the Town's efforts. She hoped that the Council could all agree that the voice is needed and we had discussed a designee. Council President Rosow indicated he would place the topic as an item under New Business.

Council Member Diamond congratulated the winners of the hard-fought election and also thanked and recognized the challengers for participating in the public process. He really wanted to make the point that he would second what the Mayor said, and he would like to see that the proposer of the new business item who wanted to require a loyalty oath from the members of the Landmarks Preservation Commission withdraw that immediately. He would make a motion at the appropriate time.

Council Member Kleid echoed the sentiment of the Mayor regarding Bill Brooks. He stated that Bill Brooks was a mentor to him and a very good friend. He relayed a story to the audience, not for him, but because it was of interest. He had received a voice mail message from Mr. Brooks just two days before his cruise. He took time out of his day and left Council Member Kleid a very uplifting message. He thought to himself, here was a man, who was seriously ill, who took the time out of his day to cheer up someone else in a race which if he won or loss, would not have a major affect on his life. Mr. Brooks was an extraordinary man and he will be deeply missed. Council Member Kleid stated that for those who voted for him and those who did not, he pledged to represent everyone to the best of his ability. He would be civil, courteous, and respectful to all, to listen carefully to divergent opinions with an open mind, and then to vote in the best interests of the entire Town. His hope was that Palm Beach be one community and that there be an end to acrimonious divisions. He hoped that negativity be banished. He hoped that everyone would respect each others' opinions and to not pre-judge before all sides of an issue are heard. He also hoped that rancor be done away with and that positions not be taken just to

enhance one's political ambitions. He continued that Palm Beach is one Town and we were all neighbors.

Council Member Wildrick echoed Council Member Kleid's comments. He felt that they were very eloquent, as they generally are, and he formally congratulated Council Member Kleid for being on the Town Council and he looked forward to working with him.

Council President Rosow stated that he also received a voice mail from Bill Brooks. He had run against Mr. Brooks two years ago, and after the race they had become friends. They had many discussions about Town business. It was a stunning loss with today's news of the passing of Cathleen McFarlane-Ross that he had heard about that morning. He stated that he meant what he said when he wrote a letter to the editor in the *Palm Beach Daily News*. He hoped that everyone could remain friends. He hoped that they could all work together. They all have the passions that run high on a lot of issues. But the passions should not destroy friendships, or the fabric of the Town. Council president Rosow promised to do his utmost to be the most civil person you have ever encountered. He asked that the Council all work together. The issues are larger than any of them and try to do what was right for the Town. Not everyone can have their way. He said he tells that to his grandchildren all of the time. He told his children that as well. He asked that everyone work together, please. Thank you.

Council Member Kleid noted he had seen the new Town Council chambers and was stunned by how beautiful they are. Architect Mark Marsh and the rest of the construction team have done a superb job. It was his understanding that it would be finished within the next three weeks and they are currently working on the electronic components. Mark Marsh stated the chambers would be completed in approximately three weeks but could not hold meetings due to ADA rules as there was no public access elevator until June. Council Member Kleid asked Council President Rosow if it would be possible to hold meetings in the new chambers sooner and to look into the matter and see if there was some way to allow second floor access. Mr. Marsh stated they would investigate the options and would see if there was an alternative route to the second floor. Council president Rosow added that he also had seen the Chambers and understated elegance is the proper term for it. It is very beautiful and they did a great job. He added that he did not want any additional funds spent.

XII. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

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

Royal Victor, 208 Via Tortuga, congratulated the newly re-elected Council Members. He was happy to see the Council reassembled to tackle the challenges in Town. He was also delighted to hear Council President Rosow's and Council Member Kleid's comments, and he echoed them as a resident and taxpayer. He next spoke about Town Government and was concerned about self-serving and non-productive behavior of narrow special interest groups who virtually hijack the discussion. The governing body may not fully hear the majority of Town residents and taxpayers who wish the governance process to proceed in an orderly and productive fashion. Whatever issue is before the Council, Mr. Victor hoped that a decision would be made only occur after a proper hearing with all points of view considered. There was a process that must play out

1 with all interested parties in a civil manner. This process often involves Town Commissions and
2 Town staff. Negotiations and decisions must be managed by the Town Council and they must
3 decide what is in the best interest of the Town. He urged the Town Council to restore and
4 energize the governance process.

5
6 Eric Gilbertson, 151 Chilean Ave, spoke of the recent election results. He congratulated all of the
7 candidates on the great job that they did. He suggested adding two more seats onto the Town
8 Council.

9
10 Larry Goldberg, 3360 S. Ocean Blvd., spoke regarding shoreline and beaches. He voiced concern
11 over the reduced scope of the Reach 8 proposal. He also strongly suggested that the Town hire a
12 government liaison for shore projects. He stated that the Shore Protection Board has stressed the
13 need for a government liaison officer to spend full time pursuing the objectives of the Board.
14 Council President Pro Tem Coniglio responded by saying that she heard his suggestions loud and
15 clear but added that any plan is years away, and the Town needs help to do it.

16
17 Mr. Dick Raffo, 173 E. Inlet Drive, former Shore Protection Board member, urged the Town
18 Council to stop wasting money and time. He stated that Public Works Director Paul Brazil and
19 the "boys" know what to do. The Shore Protection Board was climbing a hill that they cannot
20 get to the top. He disagreed with Council President Pro Tem Coniglio. He also stated that the
21 USACOE does not like us anyway, so go ahead and sue them. He suggested obtaining permits
22 for groins as that was what would save our Town.

23
24 Council Member Wildrick provided an update on his progress with Great Lakes Dredging and
25 the USACOE. He announced that he had a number of discussions with the CEO, Mr. Douglas
26 Mackey from Chicago. He heard from the USACOE several Saturdays ago and was informed
27 that the new representative is Timothy Murphy. Mr. Murphy indicated that part of the problem
28 was that the Town was coming at the USACOE with so many different people that the USACOE
29 does not truly know what it was the Town was asking for. Mr. Murphy felt that Town Manager
30 Elwell and Public Works Director Brazil should be the Town representatives.

31
32 *******Public Comments heard after the lunch recess*******

33
34 Adele Kahn, House of Kahn, 124-244 asked permission to be able to place for sale signs in the
35 windows on Valentine's Day. Since she had not discussed her request with the Merchants
36 Association, Council Member Kleid asked her to return with the consent of the Merchants
37 Association. Council Member Diamond directed staff to have this item placed on an agenda with
38 public notice for the March Town Council Agenda.

39
40 Ralph Del Deo, 265 Fairview Rd, stated that his comments were not to be interpreted as
41 supportive or not of the plaza. He was concerned about the process and the direction that the
42 Royal Poinciana Plaza and Landmarking was going in and it was creating conflict. Everyone was
43 obtaining lawyers, starting petitions, and what should be happening is to make a decision on the
44 old theater, new theater, or no theater. It comes down to the use of the theater.

1 Bill Metzger, 277 Esplanade Way, congratulated the Town Council Members who were re-
2 elected. He summarized the volunteer task force reports that were done previously. He provided
3 his opinion on whether or not more time and more studies were needed regarding the Royal
4 Poinciana Plaza.

5
6 Vicki Halmos, 315 Clarke Avenue, also part of the Task Force, stated that she may be amenable
7 to the Town conducting a study. A study itself would have three phases and would run \$20-
8 50,000.00. Council Member Wildrick announced that he was not on the Town Council when the
9 Plaza was landmarked. He asked Town Attorney Randolph why it was Land Marked in the first
10 place. Town Attorney Randolph provided a history and indicated that the Landmarks
11 Preservation Commission had recommended that after a full hearing, the entire property be
12 landmarked. Council Member Wildrick wanted to know all of the parties to the agreement and
13 who had a vested interest.

14
15 Patrick Flynn, Palm Beach Theater Guild, reiterated the conditions that the Sterling Group was
16 bound by. The Guild wanted equitable title in the trustees name.

17
18 Bruce Watts, 455 Worth Ave., stated that there are 500-600 condominiums for sale on Palm
19 Beach currently. He worked on Wall Street for twelve years and understood the economy. This
20 was such a big issue and warranted a special town referendum.

21
22 Jere Zenko, 232 Tangier Ave., stated that Council Member Wildrick asked a legitimate question
23 of Mr. Randolph and to have Mr. Frank describe the criteria driven process for Landmarking. It
24 is a criteria-driven process and was a serious issue. She also suggested having Jane Day, the
25 Town preservationist, appear.

26 27 XIII. APPROVAL OF AGENDA

28 The following modifications were made to the agenda:

29
30 **DEFERRED** ITEM IX. A. To the March 9, 2010 Town Council meeting: Recognition of
31 Thomas M. Youchak, Architectural Commission, From March 2004 Through November 2009.

32
33 **MOVED** ITEM XIV.F.1 to XVI.B.9: Rescheduling of the June Town Council Meetings to June
34 22 and June 23, 2010. [Peter B. Elwell, Town Manager]

35
36 **DEFERRED** ITEM XVI.B.3.d until the following day: RESOLUTION NO. 23-10 A
37 Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida,
38 Awarding a Construction Manager At-Risk Contract to Burkhardt Construction, Inc., for Worth
39 Avenue Streetscape and Infrastructure Improvements. [H. Paul Brazil, Director of Public
40 Works]

41
42 **MOVED** ITEM XVI.B.2 to ITEM XVI.B.9 Request for Landmarks Preservation Commission
43 Members to Attend the February 10, 2010, Town Council Meeting to Declare Their Objectivity
44 Regarding the Royal Poinciana Plaza Redevelopment Proposal.[David A. Rosow, Town Council
45 President]

ADDED ITEM XVI.B.9 – Tax Force

ADDED ITEM XVI.B.1.A: Consideration of Scheduling an Attorney/Client Session Regarding Fred Mengoni vs Town of Palm Beach, Florida, Case No. 502002CA009872AF, Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida, to Discuss this Matter to Begin Immediately Following the Regular Town Council Meeting of February 10, 2010, in the Town Council Chambers, 360 South County Road, Palm Beach, Florida. Attorney/Client Session Attendees: Mayor Jack McDonald; Town Council Members; Gail Coniglio, William J. Diamond, Richard M. Kleid, David A. Rosow, and Robert N. Wildrick; Town Manager Peter B. Elwell; Attorney John C. Randolph; and Court Reporter from Ley & Marsaa Court Reporters, Inc. [John C. Randolph, Town Attorney]

MOVED ITEM XIV.E.3 to XVII.B.10: RESOLUTION NO. 20-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Purchase Order to Mock, Roos & Associates, Inc., for the D-15 Storm Sewer Pump Station Alternatives Study for the Town of Palm Beach.[H. Paul Brazil, Director of Public Works]

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

XIV. CONSENT AGENDA

A. MINUTES: JANUARY 12, 2010 - APPROVAL OF THE MINUTES OF THE TOWN COUNCIL MEETING

B. MINUTES: JANUARY 12, 2010 - APPROVAL OF THE MINUTES OF THE SPECIAL TOWN COUNCIL MEETING-FLORIDA DEPARTMENT OF TRANSPORTATION VS. TOWN OF PALM BEACH

C. MINUTES: JANUARY 13, 2010 - APPROVAL OF THE MINUTES OF THE TOWN COUNCIL MEETING

D. APPROVAL OF MAJOR MATTERS CONSIDERED BY THE ARCHITECTURAL COMMISSION AT ITS MEETING ON JANUARY 27, 2010.

E. Resolutions

1. RESOLUTION NO. 15-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Town of Palm Beach Police Department Edward Byrne Memorial Justice Assistance Grant (JAG) Program-Florida JAG Direct Application to the Florida Department of Law Enforcement and Authorizing the Mayor to Execute the Same on Behalf of the Town. [Kirk W. Blouin, Police Chief]

2. RESOLUTION NO. 17-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Purchase of a Kubota M8340 Tractor.[H. Paul Brazil, Director of Public Works]

3. RESOLUTION NO. 20-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Purchase Order to Mock, Roos & Associates, Inc., for the D-15 Storm Sewer Pump Station Alternatives Study for the Town of Palm Beach.[H. Paul Brazil, Director of Public Works]

This item was pulled from the consent agenda and moved to Item XVI.B.11.

4. RESOLUTION NO. 22-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Execution of a Maintenance Memorandum of Agreement Between the Florida Department of Transportation and the Town of Palm Beach for Landscape Improvements in the Traffic Circle of Southern Boulevard.[H. Paul Brazil, Director of Public Works]

5. RESOLUTION NO. 24-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Town's Energy Efficiency and Conservation Block Grant Application and Authorizing the Mayor to Execute the Same on Behalf of the Town.[Thomas G. Bradford, Deputy Town Manager]

F. Other

1. Rescheduling of the June Town Council Meetings to June 22 and June 23, 2010. [Peter B. Elwell, Town Manager]

This item was pulled from the consent agenda and moved to Item XVI.B.8.

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

XV. COMMITTEE REPORTS

A Ordinances, Rules, and Standards Committee Meeting of January 26, 2010. [William J. Diamond, Town Council Member]

Council Member Diamond presented the ORS report. When the issue of entertainment establishments was discussed, Council President Pro Tem Coniglio recused herself, filed form 8B with the Town Clerk and left the dais. On that issue, Mr. Diamond provided his opinion only, and asked the Town Council for direction. He also recommended that the Retirement Boards consider adding another Town Council appointed alternate.

Council President Rosow wondered if there should be an alternate Committee Member on the ORS Committee. Chair Diamond felt it was not necessary. Town Attorney Randolph was directed to prepare an Ordinance for next month's Town Council meeting to address entertainment establishments.

Town Manager Elwell clarified that procedurally, the ORS committee was to present the code changes periodically, but the noise issue of entertainment establishments was being accelerated.

Motion to accept the ORS report was made by Council Member Kleid, seconded by Council Member Wildrick. On roll call, the motion carried 4-0, with Council President Pro Tem Coniglio recused.

XVI. REGULAR AGENDA

A. Old Business

None

B. New Business

1. 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 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 Jack McDonald; Town Council Members; Gail Coniglio, William J. Diamond, Richard M. Kleid, David A. Rosow, and Robert N. Wildrick; 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 sought the advice of the Town Council to schedule an Attorney/Client Session to immediately follow the Town Council Meeting. He read the above item into the record.

Motion to approve the Scheduling of the Attorney Client Session was made by Council Member Diamond, seconded by Council Member Kleid. On roll call, the motion carried unanimously.

- a. Consideration of Scheduling an Attorney/Client Session Regarding Fred Mengoni vs Town of Palm Beach, Florida, Case No. 502002CA009872AF, Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida, to Discuss this Matter to Begin Immediately Following the Regular Town Council Meeting of February 10, 2010, in the Town Council Chambers, 360 South County Road, Palm Beach, Florida. Attorney/Client Session Attendees: Mayor Jack McDonald; Town Council Members; Gail Coniglio, William J. Diamond, Richard M. Kleid, David A. Rosow, and Robert N. Wildrick; Town Manager Peter B. Elwell;

1 Attorney John C. Randolph; and Court Reporter from Ley & Marsaa Court Reporters, Inc. [John
2 C. Randolph, Town Attorney]

3
4 Town Attorney Randolph again sought the advice of the Town Council to schedule an
5 Attorney/Client Session to immediately follow the Town Council Meeting on February 10, 2010.
6 He read the above item into the record.

7
8 **Motion to approve the Scheduling of the Attorney Client Session for February 10, 2010,**
9 **was made by Council Member Kleid, seconded by Council Member Diamond. On roll call,**
10 **the motion carried unanimously.**

11
12 2. Request for Landmarks Preservation Commission Members to Attend the February 10,
13 2010, Town Council Meeting to Declare Their Objectivity Regarding the Royal Poinciana
14 Plaza Redevelopment Proposal.[David A. Rosow, Town Council President]

15 *This item was pulled from the Consent Agenda and heard after Item XVI.B. 8.*

16 Council President Rosow had requested that the item be placed on the agenda and read the
17 following statement into the record:

18 I want to clarify this agenda item. As written, it is a request to have members of the
19 Landmarks Preservation Commission declare their objectivity regarding the Royal Poinciana
20 Plaza redevelopment proposal. While that was in artfully written, for which I take full
21 responsibility, I really wanted to emphasis the need to have an impartial Commission review the
22 application by the Sterling Organization.

23
24 If history teaches anything, it is that human well-being and progress — indeed,
25 civilization itself — depend on the rule of law. The supremacy of the law over the exercise of
26 power is a hallmark of the Western legal tradition.

27
28 Justice under the rule of law is traditionally portrayed blindfolded, not because justice is
29 blind to the facts or the law, but because justice is impartial. From the earliest traditions of
30 Western civilization — dating back to the Magna Carta — to the present day, judges have been
31 admonished not to show favoritism, but to judge equally without preconception or bias; charged
32 not to sell justice, but to judge fairly.

33
34 If I had put my name on the supposed list of potential buyers of a condo at the Plaza, I am
35 certain I would be accused of being biased. I haven't and don't intend to do so.

36
37 I am not proposing that we subject each member of the Landmarks Preservation
38 Commission to voir dire-like questions to determine whether they can act justly and fairly about
39 the future of the Royal Poinciana Plaza. In my conversations with Skip Randolph he indicated
40 that he will provide instructions to the Commission, as before, and he will discuss them today if
41 the Council wishes. I would like to see a workshop of the Commission and Council to discuss
42 the decision that this Council made last year about the hearing by the Sterling Organization.

I'd like to everyone to recall that I worked as hard as anyone to landmark the Plaza. During that Council discussion, we all said that any future changes to the Plaza would go before the Landmarks Commission. Subsequently I placed on the Council agenda an item which provoked much discussion as to how the Commission would deal with such a review, especially since any decision they made would be subject to changes in the Comprehensive Plan, the 79 Agreement and Zoning changes. It would be imprudent to make those changes before the Commission had rendered its decision. I also said that I would abide by any decision they rendered.

At the same time, the process for any applicant before any Commission or Board must be fair and impartial.

But I do question William Cooley's impartiality. I believe he has prejudged the issue of the Playhouse's viability.

Mr. Cooley has been an ardent advocate of the Theater Guild's drive to save the Playhouse. In Op-Ed articles in the Shiny Sheet, Mr. Cooley has zealously supported the Theater Guild's position on the Royal Poinciana Playhouse, making it clear that he is anything but neutral on the very issue now pending before the Landmarks Commission.

The next example of Mr. Cooley's bias involves his decision to sign the Theater Guild's Preserve Palm Beach PAC petition to incorporate into the Town Charter portions of the 1979 agreement that protect the Playhouse for use as a performing arts venue.

Finally, Mr. Cooley was the largest donor to the Theater Guild's PAC.

It is plainly evident that Mr. Cooley's activities on behalf of the Theater Guild were all designed to shield the Playhouse — the very issue to be heard by the Landmarks Commission again this month.

Some may wonder why I'm bringing these conflicts up now. I was well aware of his bias, but truly believed he would put his personal feelings aside to listen and vote after hearing all proposal and discussion among his fellow Commissioners. I voted to place Mr. Cooley on the Commission, leapfrogging an Alternate who should have been promoted to a voting member.

Starting last week I was asked about his views by others. That prompted me to explore the question of Mr. Cooley's open-mindedness as a Landmarks Preservation Commissioner. And I started digging, completing my own research yesterday.

Clearly, Mr. Cooley should have disqualified himself from consideration of the Sterling Organization's request last month for a certificate of appropriateness. His failure to do so should not go scot-free, particularly because he has on numerous occasions questioned the biases of others and has acted as a self-appointed ethics czar. After we discuss this agenda item, I'm prepared to make a motion to remove Mr. Cooley as a member of the Landmarks Preservation Commission in accordance with Section 54-38 of our Code of Ordinances.

1 If any other Commissioners have any questions with respect to their particular situations I
2 suggest they make the Council's Ethics Committee aware of them. I also ask that the Ethics
3 Committee again look at conflicts and report back to the Council in the next 60 days.

4
5 Finally, this is not McCarthyism, a witch-hunt or any such thing. The Council established
6 a process and it should be transparent and equitable. I have no intention of swaying the
7 Commission in any direction. I have said previously, and I will reiterate again, that I will follow
8 the recommendations of the Landmarks Commission. All that I ask, and that all our residents
9 should ask, is that they make their decisions based on the facts presented and not any
10 preconceived notions or pressures.

11
12 Council Member Diamond stated that what was pending before the Landmarks Preservation
13 Commission was the question of whether the discussion of the upholding of the 1979
14 Agreement, the Comprehensive Plan, and the Zoning Regulations should take place first, before
15 the Landmarks Preservation Commission makes a decision on the Certificate of Appropriateness.
16 Town Attorney Randolph had indicated that was a condition subsequent and Council Member
17 Diamond felt it was a condition precedent. He thought that was the reason why the Landmarks
18 Preservation Commission was also asking for their own attorney. He was against removing
19 William Cooley from the Commission and felt the words were harsh.

20
21 Council Member Kleid frankly was suspicious of Mr. Cooley who stated on the record that he
22 was not impartial at the time of his appointment. Mr. Cooley had stated at his applicant interview
23 he would enter into this with an open mind. A quasi-judicial board does not allow you to make
24 statements about your opinion and it was bad practice to express your opinion. Regardless of
25 personal feelings, you must be open-minded.

26
27 **Council Member Kleid made the following motion:**

28
29 **Motion that the members of the Landmarks Preservation Commission be requested to**
30 **attend the February 10, 2010 Town Council Meeting at a time certain of 10:00 a.m. to hear**
31 **the remarks of the Town Attorney with respect to the unanimous motion of the Town**
32 **Council giving instructions to Landmarks vis a vis the Sterling-Munder application, to**
33 **render again his legal opinion, to advise the members of the Landmarks Preservation**
34 **Commission of the existence of an indemnification ordinance of the Town of Palm Beach**
35 **protecting commission members from liability, to educate them as to the quasi-judicial**
36 **nature of the Sterling-Munder application and the duty of each commission member not to**
37 **prejudge the application, to listen with an open mind to the testimony presented, to ask**
38 **question and only then to render a decision. Furthermore, that each Landmarks**
39 **Preservation Commission Member be counseled not to make statements in advance of the**
40 **presentation of the application so as not to be perceived as having made up their minds**
41 **before hearing the matter. And if they cannot abide by the foregoing, that they be asked to**
42 **submit their resignation forthwith. Motion Seconded by Council Member Diamond.**

43
44 There was further discussion on the topic. Council Member Wildrick stated that he thought his
45 words were terrific and if Mr. Diamond had not seconded the motion, he would have. He agreed
46 with Council Member Kleid and said the motion was well-written and very fair.

Council President Pro Tem Coniglio asked to add to the motion said that any overt action such as financial support questions due process and could lead to recusal and possible litigation. There was a violation of ethics, if not only perceived, and should lead to recusal. She frankly wants there to be open and judicious procedure. She has often recused herself repeatedly so that there was no perception of any overt actions. Council member Kleid wanted to keep his motion as he read it.

Mayor McDonald stated that he felt in the unusual situation of defending Mr. Cooley. He said that by looking at the Agenda item, he certainly did not realize the topic was about Mr. Cooley and at a minimum, if Council President Rosow was going to skewer someone in public, they should probably at least know so that they could bring some representation with them. Or bring someone that could speak for them, or perhaps explain something to the Town Council. That was basic due process. He felt as a courtesy, he would normally owe that, because he did not see the item as a Bill Cooley item you should treat citizens and Commission Members with respect and if you are going to skewer them, you let them know in advance.

Council President Rosow responded that the opening part of his statement was what he intended by the item on the agenda. The subsequent information about Mr. Cooley, was developed subsequent to the agenda being published.

Mayor McDonald informed Council President Rosow that when the Agenda was approved in the morning, he could have always amended the agenda.

Al Flamm, Palm Beach President, vigorously supported Council Member Kleid in the past month but now had a serious question. During the campaign, Council Member Kleid had pointed out in the debates that overt support of the Theater and development statements from the opponent would require the opponent to recuse himself. Mr. Cooley's actions certainly should have been recused.

Council Member Kleid responded that it was a quasi judicial proceeding, and if a judge asked a juror if they are prejudiced, they should be able to state if they would be open-minded. Town Attorney Randolph clarified that having the Landmark Preservation Commission Members be present the following day was to be an educational process.

Council Member Wildrick stated that the Town Council and the Mayor have all said what he thinks. He felt what Council Member Kleid was trying to do was the right way to do things.

Pat Flynn, Theater Guild, clarified for the public that that Mr. Cooley gave money to his PAC before he became a Landmarks Preservation Commissioner.

John Mashek, Preservation Foundation, stated that they worked hard to find candidates for the commissions. He cautioned that an onerous statement would deter people from even applying.

Bruce Watts, 455 Worth Avenue, asked if the record could be read back and it could not. He said Council member Diamond stated that many people have opinions. Opinion was a frequent

synonum for bias. That was what Mr. Cooley was being accused of. Furthermore, this was not a court martial. These are rational people from Palm Beach. Calling Mr. Cooley before you was patently unreasonable. He spoke with regard to Council President Pro Tem Coniglio's comments how legal points become convoluted by contributions. He heard commitments from Town Council Member today that they were going to, or had contributed to feral cats. He asked if the Town Council should declare their objectivity to the beach issues. Lastly, building more residential space was patently absurd.

Charles Roberts, 301 Australian Avenue, and a Landmarks Preservation Commissioner for the past four years. Last month they were under a lot of pressure, they did not want to cost the Town more money in legal fees and instead asked for a 30 day postponement. He applauded Council Member Kleid's motion. He felt that the Landmarks Preservation Commission was the appropriate place for the issue to be. He felt that they have done a good job.

Attorney John Little, Brigham Moore, representing Sterling Palm Beach LLC, stated that over the past two years, his client has always taken the high road in the Town. The *Palm Beach Daily News* said in an editorial that a more litigious approach may have occurred. The client desires to work with the Town Council with the best interests of the Town in mind. He provided a brief history of the process his client has gone through. An impartial decision maker is a major component of impartial due process. Regarding Mr. Cooley: in March of last year March 11, 2009, Mr. Cooley read a prepared statement that Ms. Lory Volk finished reading into the record. This was the day after Mr. Cooley was appointed to the Landmarks Preservation Commission. The following month, Mr. Cooley began a quest to lease the theater as a non-profit endeavor. While some examples have been given asked to step off the board, he appreciates the Town Council recognizing the concern and taking steps to address the issue.

Council President Rosow announced firmly that he had not spoken to anyone at the Sterling group at all. He asked for a certified copy of the list of investors in the Sterling Org. to clear up and information about who is benefiting from the redevelopment of the Plaza. Attorney Little indicated that he would comply with that request.

Anita Seltzer, 44 Cocoanut Row, asked if the list would include the additional LLC's that are part of the COA.

Attorney John Little responded that they will provide the identity of the investors in the LLC.

Ms. Seltzer stated that in addition to Sterling's name as the COA, there was an affidavit that included two additional LLC's, one was Sterling Holdings MM, and an addition LLC. She said there seem to be unidentified person lobbying in the background.

Anita Seltzer referenced a *Palm Beach Daily News* article from April 18, 2009 written by David Rosow. She read the article into the record. She felt he had also previously stated his opinion to the press.

Mayor McDonald stated that Council President Rosow should respond. Council President Rosow stated that he would abide by the Landmarks Preservation Commission. He apologized for writing that letter back in April and regretted doing so.

John Grosskoff, General Manager, 44 Cocoanut Row, asked Council President Rosow what would happen if the Landmarks Preservation Commission declines the decision. He asked if Council president would step down since he had already stated his opinion. Council President Rosow indicated that he would abide by the Landmarks Commission decision. Council Member Kleid objected to the cross examination of the Town Council.

Council Member Wildrick commented to Attorney John Little with who the various parties are would be one more thing to remove from the table. The goblins are in the closet and they cloud the issue. He added one more comment concerning Mr. Cooley. He knows both Mr. Cooley and Mr. Rosow, and they are both principled individuals. He has never questioned their integrity. He would believe Cooley if he stated he would have an open mind. Council President Rosow does not have to have a reason to remove him from the board. It is within the charter of the Town.

On roll call, the motion carried unanimously.

Town Manager Elwell previously had notified the Members of Landmarks Preservation Commission to confirm their attendance at the meeting the following day.

3. Worth Avenue Improvement Project

This item was heard after Item XVI. B.4.

a. Change of Sidewalk Material.[Thomas G. Bradford, Deputy Town Manager]

Deputy Town Manager Bradford presented the item and showed the Town Council Members a sample of the Tabby sidewalk material. He stated that it was an old world material brought by the Spanish and was made of lime and shell. It was important to change the material due to time constraints, and cost about the same as fake coquina. It would save fifty days in work and labor because it was a poured product. He also submitted a photo of the Tabby yard.

Council President Rosow asked if the Worth Avenue Improvement District owners and primary property owners had approved the material. Deputy Town Manager Bradford stated he had not received any objections.

Jorges Sanchez, Sanchez and Maddox, stated that the material was used at the Bath and Tennis Club, and he has used it in many driveways in town and on terracing. Mr. Sanchez indicated that the material was discussed at ARCOM.

Ron Kolins, Attorney for the Worth Avenue Restoration Group, was in support of the project as long as it was completed within a one year timeframe. If it were to take longer, they would object.

Motion to approve the Tabby sidewalk material made by Council Member Diamond, and seconded by Council Member Kleid. On roll call, the motion carried unanimously.

b. Hibiscus Avenue Median Cut.[Thomas G. Bradford, Deputy Town Manager]

Deputy Town Manager Bradford presented the item and distributed maps of the proposed median.

There was discussion concerning the flow of traffic. Mr. Adam Kerr, P.E., traffic engineer for Kimley Horn and Assoc., answered the traffic study and noted it was illegal to turn south out of the Apollo lot currently. The drawings show the existing traffic conditions.

Council Member Wildrick stated that today there were now three more changes since the bond had been approved: the sidewalk, the parking lot, and the money. He asked how many more changes would be coming before the Town Council. He directed staff to do better.

Ron Kolins, speaking for those he represents, stated that there was strong support for the median cut but could not quantify the lot disruptions. Architect Mark Marsh also addressed the traffic flow and study.

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

c. Request for Waiver of Section 42-199, Hours of Construction.[H. Paul Brazil, Director of Public Works]

Deputy Town Manager Bradford reminded the Town Council that in order to make the project a one season job, there would need to be a waiver of work hours. Public Works staff and the Contractor indicated to the Town that originally the project would take 17-18 months to complete during normal working hours. The Worth Avenue Association objected and in order to accommodate everyone, the longer construction hours are needed.

The requested waiver is to begin work on April 5, 2010, and end on November 24, 2010 for five days a week from 5:00 a.m. until 9:00 p.m.

Mr. Vince Burkhardt, of Burkhardt Construction, stated that they would be considerate of noise and fully understand the requirements. They also will take special considerations when they are in and near the residential areas and will attempt to not back up early in the mornings.

Council Member Kleid asked if there would be coordination of the area and notification to the residents. He asked for any objections from the audience.

Bruce Watts, 455 Worth Ave., rose and stated that he had not received any information on the project.

Motion to approve the extended construction hours was made by Council Member

Diamond, seconded by Council Member Kleid. On roll call, the motion carried unanimously.

***** *The lunch recess was from 12:30 p.m. until 2:00 p.m.* *****

d. RESOLUTION NO. 23-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Construction Manager At-Risk Contract to Burkhardt Construction, Inc., for Worth Avenue Streetscape and Infrastructure Improvements. [H. Paul Brazil, Director of Public Works]

This item was deferred until February 10, 2010.

4. Shore Protection Board Recommendations.

a. RESOLUTION NO. 19-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Contract to Coastal Systems International, Inc. for Development of a Joint Coastal Permit Application for State and Federal Permitting of a Beach Restoration Project in Reach 8. [H. Paul Brazil, Director of Public Works]

This item was heard after Item XVI.B.1.a.

Director of Public Works Paul Brazil presented the item. He introduced Mr. John Studt, P.E., from Coastal Systems International. Mr. Studt gave a power point presentation on the proposed Reach 8 Restoration Project to the Town Council and a copy was provided for the record.

There was discussion among the Town Council Members about:

- the cost of the project which included design work and peer review (\$95,000)
- the amount of Trucks impacting the area constantly for four months
- the type of sand
- sand source
- obtaining the permit from DEP
- State funding expiration
- Which bridges would be used for transport of sand

Council President Rosow asked for public comments on this item.

Madeline Greenberg, Co-Chair of the Citizens' Association, read the following statement into the record:

My name is Madelyn Greenberg. Jimmy Ryan, who is also here this morning, and I are the new Co-Chairs of the Citizens' Association.

Like you, our members love this town, and they're willing to roll up their sleeves and do what it takes to protect and improve our entire community.

1 But this morning I want to briefly address the Reach 8 beach renourishment proposal on
2 your agenda. Our fragile beaches are our first line of defense against storm damage and flooding.
3 In many spots in Reach 8, however, the sand has washed away leaving condominiums
4 vulnerable. The danger is very real.

5
6 Shore protection is essential for Palm Beach, whether we live on the water or inland, in a
7 condo or in a house. At the end of last year, the new Shore Board completed a 10-year coastal
8 protection plan that calls for a mix of beach re-nourishments, dune restorations and hard
9 structures to protect coastal properties.

10
11 Last month the Shore Board approved a feasibility study of a truck and haul
12 renourishment plan for Reach 8. The cost would be \$15 million and the amount of sand would be
13 261,000 cubic yards versus 724,000 cubic yards in the original plan which was the minimum for
14 Reach 8. According to the Shore Board's consultant, Coastal Systems International, this truck
15 and haul plan would be easier to permit.

16
17 At the Citizens' Association we appreciate how difficult the permitting process is, but we
18 wonder about the long-term cost-effectiveness of the truck and haul proposal and believe the new
19 proposed amount of sand is insufficient.

20
21 In addition to the Shore Board's truck and haul idea, we strongly urge you to also
22 consider a vigorous sand and dune restoration strategy for Reach 8 that would include beach re-
23 nourishment, our first line of defense and dune restoration our last line of defense against storm
24 damage. We know it is essential that a permanent vegetation prevention barrier system be placed
25 on the dunes which will support the maintenance of the dunes we are proposing and would
26 provide a safe habitat for natural sea vegetation and dune ecology.

27
28 At the Citizens' Association we believe that shore protection measures must form a
29 permanent part of our town's future and become an integral part of our resolve to maintain our
30 community's current way of life. Consequently, we are in the process of appointing our own
31 coastal protection task force to address erosion on our small island's beaches and our team will
32 offer what we hope will be valuable recommendations to the town's Shore Board and Town
33 Council.

34
35 Storm Protection for this barrier island was why we need to protect our beaches. We are
36 one town and one community. What affects one of us, affects all of us. We are not North Enders
37 and South Enders, not homeowners and condo owners. We are Palm Beachers, people who live
38 in paradise, men and women who are neighbors that care about each other. And, when it comes
39 to Palm Beach, we must stand together in our common cause. Thank you for letting me to speak
40 to you this morning.

41
42 Eric Gilberston, 151 Chilean Ave., asked what happened to the groins. He asked if the permit
43 could be renewed and Town Manager Elwell said that they could not, and responded that the
44 groins at Mid-Town from fifteen years ago did stabilize the beach. Today, the State and Federal
45 governments rarely permit groins to provide stability, due to starving the beaches south of the

1 groin placement. He spoke a second time on the item and again reiterated the need for groins to
2 protect his home.

3
4 Bruce Watts, 455 Worth Avenue, congratulated the re-elected Town Council Members. He asked
5 the Town Council with Council President Rosow and others to declare their objectivity regarding
6 the Landmarks Preservation Commission. The Town Council are servants of the people, and the
7 Landmarks Preservation Commission, although appointed by the Town Council, are also
8 servants of the people. He asked if the objectivity should also come from the Shore Protection
9 Board Members. He was opposed to the project and the ongoing costs. He provided an example
10 of the Indians selling Manhattan Island. His other concerns were the weight of the trucks on the
11 roads and the use of the bridges. He spoke again later on the same item relating to the high costs
12 of the projects and his view on seawalls.

13
14 Council Member Kleid responded to Mr. Watts's comments regarding seawalls and addressed
15 him by stating that he has not seen him at any Shore Board Meetings. He suggested attending
16 because there have been numerous experts to explain all of the issues. The frustrating part was
17 that the permitting process is fraught with peril and unless the environmentalists are on the
18 Town's side, nothing will ever be approved.

19
20 Jim Ryan, 2860 S. Ocean Blvd., and Co-chair of the Citizens' Association, also congratulated
21 the re-elected Council Members and rebutted the former gentleman by stating that they all have
22 paid to re-nourish the north end beaches for the past fifteen years. He felt it was important to
23 keep moving forward and focus on the south end now. He suggested offering the
24 environmentalists a reward if they can locate good sand that is acceptable to them.

25
26 Peter Pettie, 3400 S Ocean Blvd., spoke of his opposition to the proposed project. He stated that
27 the Town has lost lawsuits and other losses. He cited Jude Meale's decision, and asked why other
28 municipalities can get projects approved, such as Singer Island, but Palm Beach cannot get
29 permits. Palm Beach pays so much more. He cited the costs of cubic sand for beach and dune
30 restoration for a smaller scale project than what was previously proposed.

31
32 Lewis Katz, 2275 S. Ocean Blvd, as a resident, engineer, and Shore Protection Board Member,
33 but clarified he was not speaking as a member of Shore Protection Board. He stated that you
34 cannot take safety issues out of a project and the Town must learn from what happened to the
35 Reach 7 mistakes. He further stated that you need structures and sand grain size that will adhere
36 to the beaches. He said to take a look at Galveston, Texas and how the entire island was wiped
37 out with just one storm.

38
39 Public Works Director Brazil responded that the larger grain size would work even with a
40 smaller volume, and would not last more than six to seven years. The south end receded back to
41 current conditions within five to six years. He suggested Reach 7 act as a feeder beach and the
42 sand would migrate south. Eighty-eight percent of the sand was accounted for. In the south end-
43 the sand needed to be anchored - either by groins or structures. Permitting will be difficult due to
44 the near shore hard bottom. Regarding Juno Beach, Public Works Director Brazil said it was
45 similar to mid-town and this was Juno's second round also. Town Manager Elwell also provided
46 a historical perspective of previous projects and the likelihood of success in obtaining permits.

Council President Rosow asked to hear from engineer and staff about placing groins where necessary to have sand on the beach. Town Manager Elwell indicated that they could not do that for free. Wants the Citizens' Association to conduct a poll as to whether the residents would tolerate such a large projects with the trucks on the road etc. He also asked the Civic Association to study the impact over the Southern Blvd. bridge.

Motion to approve Resolution No. 19-10, including the direction to conduct a survey by the Citizens' Association was made by Council President Pro Tem Coniglio, seconded by Council Member Diamond. On roll call, the motion carried unanimously.

The next item heard was Item XVI.B.3.a.

b. Shore Protection Board operating expense \$25,000.[H. Paul Brazil, Director of Public Works]

This item was heard after the lunch recess and Citizen Comments.

Public Works Director Paul Brazil presented the item to the Town Council. Similar funding as last year. Council President Pro Tem Coniglio asked what the bare bones budget was. Town Manager Elwell responded that the money was used for small consulting jobs, production of maps, travel fees for consultants and that \$21,000 of the \$25,000 was spent last year.

There was discussion regarding the amount that would be necessary and it was the consensus of the Town Council to approve a smaller mount, and the Shore Protection Board could come back if they had a project they needed more funding for.

Motion made by Council Member Diamond to approve \$15,000.00 for Shore Protection Board operating expenses. Motion seconded by Council President Pro Tem Coniglio. On roll call, the motion carried unanimously.

5. RESOLUTION NO. 21-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Establishing a Revised Contract Limit for Sand Transfer Plant Renovations, a Fund 309 Project, for the Town of Palm Beach. [H. Paul Brazil, Director of Public Works]

Public Works Director Paul Brazil presented the item to the Town Council. He stated that the additional monies were needed (\$242,000.00) to shore up the exterior and upgrade electrical.

Council President Pro Tem Coniglio was appalled at the concrete cost overrun and was very angry with this. Public Works Director Brazil stated that staff was meeting with the consultant this Friday and they, too, were disappointed. Council Member Wildrick stated that staff had to do better with this and other projects.

Council President Rosow said he felt the consensus of the Town Council was to not pay for the concrete overrun and re-negotiate with the contractor and come back again. Public Works Director Brazil responded that if they did that, the work would have to stop for at least a month. Council Member Diamond wanted to keep the sand pumping. Town Manager Elwell indicated that it was not the consultant doing the work's fault, but the design company bid that was erroneous.

Motion to approve Resolution No. 21-10 made by Council Member Diamond, seconded by Council Member Kleid. On roll call, the motion carried unanimously.

6. Proposed Donation of Henry Flagler Statue for Placement in Memorial Park. [Jay Boodheshwar, Director of Recreation]

Director of Recreation Jay Boodheshwar presented the item. He noted that in planning for the Town's centennial, the Centennial Committee was interested in erecting a statute of Henry Flagler in the Town.

The Flagler Museum Director, Mr. Blades had worked with the anonymous donor and was again willing to donate the statue and underwrite all of the costs. The Centennial Commission approved of the request. Director Boodheshwar provided a rendering of what the statute might look like.

Council Member Diamond asked if the recommendation could go to the Landmarks Preservation Commission for a decision. Director Boodheshwar added that there were letters of support from the Society of the Four Arts, the Flagler Museum, the Garden Club, the Civic Association, Citizens Association and a couple of individual residents. He has not received any comments from the Preservation Foundation.

John Mashek, Preservation Foundation, preferred to see the decision and recommendation in the hands of the Landmarks Preservation Commission. Council President Pro Tem Coniglio agreed with Mr. Mashek. She felt that the statue issue had been presented many times previously and Memorial Park was for fallen officers and veterans, and was a passive place for reflection.

Council Member Wildrick stated that the Town should not accept the gift until the Landmarks Preservation Commission approved it.

Motion to ask the Landmarks Preservation Commission for their recommendation prior to the acceptance by the Town was made by Council Member Diamond, seconded by Council Member Wildrick. On roll call, the motion carried unanimously.

7. Consideration of a \$25,000 Town Contribution to Island Cats.[Robert N. Wildrick, Town Council Member]

Council Member Wildrick presented the item since Island Cats was having financial difficulties. They have done an excellent job and he suggested that the Town make a donation to Island Cats

1 for \$25,000. The alternative was to let County Animal Care and Control handle the feral cats,
2 and the Town would not be pleased with the results.

3
4 Council President Rosow was opposed to spending \$25,000. He stated it may be more
5 appropriate to revisit the bricks fundraiser,

6
7 David Levitt, 1480 Via Manana, President of Island Cats, indicated the financial situation and
8 could not promise that he would not be back in the future asking for more monies. Mr. Levitt
9 read letter from an unidentified vet in Town into the record. He then asked the public for
10 financial help.

11
12 Council President Pro Tem Coniglio appreciated the efforts of Island Cats. She stated that the
13 cats are well tended and feeders are clean. She reminded Mr. Levitt that when they handed over
14 the baton to them they (Island Cats) said they did not need any funding. She would not support
15 the brick process but would support a donation to get them on their feet. It was setting a
16 precedent that she was leery of.

17
18 Council Member Kleid said he disliked disagreeing with Council President Pro Tem Coniglio
19 but the Town Council had made it clear there were no more donations. He did not see the sale of
20 bricks as setting a precedent. This was town serving, and if Island Cats did not serve the Town,
21 the county would have to step up and do a poor job. There should be a core donation group.

22
23 Mayor McDonald was opposed to the bricks and was concerned that this was only a one time
24 solution. Mayor McDonald explained that the bricks would only be a one-time fix. The Town
25 Council needed to take responsibility for this issue.

26
27 Council Member Diamond asked how many bricks were to be sold and indicated he would
28 purchase four bricks.

29
30 Council Member Wildrick noted that he was skeptical when he first met with Mr. Levitt but he
31 has proven himself and he swung from a disbeliever into a believer.

32
33 Council President Rosow passed the gavel to Council President Pro Tem Coniglio and made
34 motion to reconsider the brick motion made last month. **Motion made by Council President**
35 **Rosow, seconded by Council Member Diamond, to reconsider the denial of the brick paver**
36 **fundraiser. On roll call, the motion carried unanimously.**

37
38 **Motion made by Council President Pro Tem Coniglio to approve the \$25,000 contribution**
39 **to Island Cats, but not include the brick paver fundraiser. Motion died for lack of a second.**

40
41 **Motion made by Council Member Diamond to approve both the brick pavers at 240 Park**
42 **Avenue subject to the approval of the donor of the 240 Park Avenue property and the**
43 **\$25,000 donation.** There was further discussion among the Town Council Members. **The**
44 **motion was seconded by Council Member Wildrick. On roll call, the motion passed 4-1,**
45 **with Council President Rosow dissenting.**
46

8. Rescheduling of the June Town Council Meetings to June 22 and June 23, 2010. [Peter B. Elwell, Town Manager]

This item was pulled from the consent agenda.

Mayor McDonald pulled the item because he felt that the meeting dates should be concrete. He stated that this was the second time that the schedule had been changed in the past year, and it had never happened to his knowledge, the prior fifteen years. He had comments the first time it happened, but it served the six of them, and not necessarily the public. People know the Town Council meetings are the second Tuesday of the month, they plan accordingly. He also stated that if a Council Member needed to miss a meeting, they are permitted to do so. The meeting does not have to be rescheduled. Mayor McDonald stated that he had missed one meeting in fifteen years. No one is going to care if a Council Member misses one meeting. His feeling was that a set schedule provided more certainty to the residents.

Town Manager Elwell added that since the Agenda was printed the June dates would be June 21 and June 22. A decision on which day would be Development Review would be announced at a later date, with public notice in the newspapers, Town Website and Bulletin Boards.

Motion to approve the rescheduling of the June Town Council Meetings dates to June 21 and June 22, 2010 was made by Council Member Diamond, seconded by Council President Pro Tem Coniglio. On roll call, the motion carried unanimously.

9. COUNTY TAX FORCE

This item was heard after Item XVI.B.2.

Council President Pro Tem Coniglio added this item to the agenda. She wanted the Town Council to confirm the designation of Council Member Kleid to represent the community in an effort to reduce the County taxes and bring back more money to the Town. Council Member Kleid accepted the nomination.

Town Manager Elwell clarified that Council Member Kleid would be undertaking the effort for the good of the Town, as opposed to being appointed to take action on their behalf, which would create Sunshine issues.

Council President Pro Tem Coniglio made a motion to nominate Council Member Kleid to represent the community on a County Budget Tax Force, seconded by Council Member Diamond. On roll call, the motion carried unanimously.

10. RESOLUTION NO. 20-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Purchase Order to Mock, Roos & Associates, Inc., for the D-15 Storm Sewer Pump Station Alternatives Study for the Town of Palm Beach.[H. Paul Brazil, Director of Public Works]

This item was pulled from the consent agenda.

Council President Pro Tem Coniglio pulled the item from the Consent Agenda because she questioned the study. She was watching the Town dollars or anything within the study that could be used in the accelerated program that could apply to more than just the current Pump Station. Public Works Director Brazil responded to her questions. He could not guarantee that the footprint would be reduced but assured her he would and the neighbors apprised of the project.

Motion to approve Resolution No. 20-10 was made by Council President Pro Tem Coniglio, seconded by Council Member Diamond. On roll call, the motion carried unanimously.

XVII. ORDINANCES

A. Second Reading

None

B. First Reading

1. ORDINANCE NO. 5-10 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 82 of the Town Code of Ordinances at Subdivision IV, Police Officers, Section 82-110(c), Police Officer Board of Trustees, to Provide for Quarterly Meetings; Amending Section 82-111, Term of Office, to Provide for Staggered Terms; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date. [William Hanes, Pension Administrator]

Town Attorney Randolph read Ordinance No. 5-10 by title, as printed above.

Motion to approve the First Reading of Ordinance No. 5-10 made by Council Member Diamond, seconded by Council President Pro Tem Coniglio.

Ray Snow, Chairman of the Police Officers Retirement Board, informed the Town Council that there were no cost overruns, and they delivered 17.6% positive returns for the calendar year ending December 31, 2009. He noted that the Ordinance was to make the meetings quarterly and more consistent with the other terms of retirement boards. He also mentioned the ORS Committee recommendation to add another Alternate position and he would take that recommendation to the next meeting for further discussion.

On roll call, the motion carried unanimously.

William Hanes, Pension Administrator for the Fire Fighters Retirement Board said a similar ordinance will be coming before the Town Council next month.

2. ORDINANCE NO. 6-10 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Providing for an Amendment to the Town's Budgets Adopted

for the Fiscal Year Commencing October 1, 2009, Providing an Effective Date.[Jane Struder, Director of Finance]

Town Attorney Randolph read Ordinance No. 6-10 by title, as printed above.

Motion to approve the First Reading of Ordinance No. 6-10 made by Council President Pro Tem Coniglio, seconded by Council Member Diamond. On roll call, the motion carried unanimously.

XVIII. ANY OTHER MATTERS

There were none.

XIX. ADJOURNMENT

There being no further business, the Tuesday, February 9, 2010, Town Council Meeting was adjourned at 4:20p.m.

APPROVED:

David A. Rosow
Town Council President

ATTEST:

Joanna Cunningham
Town Clerk

TOWN OF PALM BEACH

Town Council Meeting on: March 9, 2010

Section of Agenda

Consent Agenda

Agenda Title

Approval of the Minutes of the Special Town Council Meeting held on February 09, 2010.

Presenter

Joanna Cunningham, Town Clerk

Supporting Documents

- Minutes of the Special Town Council Meeting held on February 09, 2010

**MINUTES OF THE SPECIAL TOWN COUNCIL MEETING
HELD ON TUESDAY, FEBRUARY 9, 2010**

I. CALL TO ORDER AND ROLL CALL

The Special Town Council Meeting was called to order on Tuesday, February 9, 2010, at 4:46 p.m., at 355 S. County Road, Palm Beach, Florida 33480, in the Central Fire Station, in the Emergency Operations Center (EOC). On roll call, all elected officials were found to be present.

II. APPROVAL OF AGENDA

Motion to approve the Agenda as printed was made by Council President Pro Tem Coniglio and seconded by Council Member Diamond.

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.

Town Council President Rosow announced:

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

- d.) Persons attending the meeting (listed above) relocate from the Emergency Operations Center to the Administrative Conference Room.

At 4:47 p.m., the attendees relocated into the Administrative Conference Room.

IV. RECONVENE SPECIAL TOWN COUNCIL MEETING IN THE EMERGENCY OPERATIONS CENTER

A.) Call to Order

The Special Town Council meeting was reconvened at 5:22 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 spoke with the Attorney and received information from him. The Town Council provided further direction to the Attorney.

Council President Rosow mentioned one other item. It was related to the sand transfer plant and the expense of having a lobbyist. The Town is trying to figure out a way to save money, and it currently has two lobbyists.

Council President Pro Tem Coniglio stated that the Town has received credible work from Marlowe out of Washington, D.C., the Town also has a good relationship with Greenberg Trauig and their work on the Town's behalf.

Motion to hire Greenberg Trauig with same parameters as Marlowe with a thirty day notification in the event the contract would need to be altered, and notify Marlowe, while pleased with their work, it was a money saving decision made by Council President Pro Tem Coniglio, and seconded by Council Member Diamond.

Town Manager Elwell explained the cost savings to the Town Council. He was directed to retain Greenberg Trauig, and also exercising the thirty day notice to terminate the contract with Marlowe.

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, February 09, 2010 was adjourned at 5:24 p.m.

APPROVED:

David A. Rosow
Town Council President

ATTEST:

Joanna Cunningham
Town Clerk

TOWN OF PALM BEACH

Town Council Meeting on: March 9, 2010

Section of Agenda

Consent Agenda

Agenda Title

Approval of the Minutes of the Town Council Meeting held on February 10, 2010.

Presenter

Joanna Cunningham, Town Clerk

Supporting Documents

- Minutes of the Town Council Meeting held on February 10, 2010

**MINUTES OF THE TOWN COUNCIL MEETING
HELD ON WEDNESDAY, FEBRUARY 10, 2010**

I. CALL TO ORDER AND ROLL CALL

The Regular Town Council Meeting was called to order on Wednesday, February 10, 2010, at 9:30 a.m., in the Emergency Operations Center, 355 South County Road, Palm Beach. On roll call, all of the elected officials were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

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

III. COMMENTS OF MAYOR JACK McDONALD

Mayor McDonald stated that he would reserve his comments until the Landmarks Preservation Commission item was heard.

IV. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

Council Member Wildrick commented regarding donating \$25,000 to Island Cats at yesterday's meeting. He requested that David Levitt come back and give a report of his actions on his plans to raise future funds.

President Rosow noted that the item would be placed on the Agenda for the next Town Council meeting.

V. COMMUNICATIONS FROM CITIZENS- 3 MINUTE LIMIT PLEASE

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

Madeline Greenberg read the following statement and submitted a written copy for the record:

My name is Madelyn Greenberg, and I speak to you today on behalf of The Board of Directors of The Citizens Association of Palm Beach.

The Citizens' Association wishes for it to be entered on record that we continue to be opposed to the Donner Project which is located across from 3200 South Ocean Blvd., on State Route A1 A.

The reasons our association objects to this project now or at any time in the future are:

- The obvious deleterious effect on the environment and fisheries.
- The negative impact on traffic flow on A1A during and after construction of the proposed project.
- The dangerous precedent which granting such a permit would create. Erosion control measures have already been completed to protect the Intracoastal shoreline of this property and the entire shoreline of the Lake Worth Intracoastal Waterway south of the Lake Worth Bridge. This would open the way for developers to petition for projects to be constructed on submerged land along the Intracoastal Waterway or in fact anywhere there is submerged land. Compensatory mitigation is not a rationalization for granting such a permit.
- Existing buildings along A1A legally constructed between critically eroded ocean front beaches and the Lake Worth Intracoastal Waterway shoreline are already endangered.
- Numerous protracted attempts to gain permits to restore these beaches in order to protect this existing infrastructure and the State Route A1A have proved unsuccessful. Such a project which involves damage to the environment puts infrastructure at greater risk and increases erosion and must be rejected.

The Citizens' Association urges The Town of Palm Beach to continue to deny this permit application. Thank you for your time and cooperation with this matter.

VI. APPROVAL OF AGENDA

ADD item under VIII.D.1.a., on page 5, per Council Member Kleid's request for discussion on Landmarks Preservation Commission's responsibilities.

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

5 VII. ORDINANCES

6 A. Second Reading

- 7
8 1. ORDINANCE NO. 4-10 An Ordinance of the Town Council of the Town of Palm Beach,
9 Palm Beach County, Florida, Amending Chapter 134, Zoning, at Sections 134-326 and 134-
10 2182 to Change the Reference from Building Official to Director of the Planning, Zoning
11 and Building Department, Section 134-893(a)(13) Relating to the Cubic Content
12 Requirements for R-B Lots Which Are Not Adjacent to the Waters of Lake Worth in
13 (a)(13); Sections 134-1472, 134-1473 and 134-1474 Relating to Allowing Public Structures
14 and Buildings in the Beach Area Zoning District and Exempting Them from Setback, Size
15 and Height Requirements; Providing for Repeal of Ordinances in Conflict; Providing for
16 Codification; Providing an Effective Date.[John S. Page, Director of Planning, Zoning, and
17 Building]

18 Town Attorney Randolph read Ordinance No. 4-10 by title, as printed above.
19

20 **Motion made by Council Member Diamond, seconded by President Pro Tem Coniglio, to**
21 **adopt Ordinance No. 4-10. On roll call, the motion carried unanimously.**
22
23

24 B. First Reading

25 None

26 VIII. DEVELOPMENT REVIEWS

27 A. Appeals

28 None

29 B. Time Extensions & Waivers

30 Town Clerk Cunningham administered the oath to all those who would be providing testimony.
31
32
33

- 34 1. Request for Waiver of Section 42-199, Work in the C-WA Zone, at 206 Worth Avenue (Per
35 Letter Received January 7, 2010, From Empire Facilities Management Group).

1
2 Ex-parte communication was not declared by any members of the Town Council.

3
4 Planning, Zoning and Building Director Page indicated that there was a cracked floor situation
5 and the owner requested a single, overnight repair work. He said staff believed it to be a safety
6 issue and outlined a series of conditions, contained in the backup material, which would be
7 completed in 24 hours.

8
9 Responding to President Pro Tem Coniglio, Mr. Page indicated that there was no objection from
10 neighboring stores on the left or right.

11
12 **Motion made by President Pro Tem Coniglio, seconded by Council Member Diamond, to**
13 **approve the Request for Waiver of Section 42-199, Work in the C-WA Zone at 206 Worth**
14 **Avenue, with conditions set forth by staff. On roll call, the motion carried unanimously.**
15
16

2. Request for Waiver of Section 42-199, Work in the C-WA Zone, at 151 Worth Avenue,
Neiman Marcus (Per Letter Dated January 27, 2010, From David Volosin).

17
18 Ex-parte communication was not declared by any members of the Town Council.

19
20 David Volosin, Neiman Marcus, provided an overview of the request.

21
22 Responding to Council Member Diamond, Mr. Volosin replied that it was internal work only,
23 would not be noisy outside of the building, and there were no objections from the neighbors.

24
25 **Motion made by Council Member Diamond to approve the Request for Waiver of Section**
26 **42-199, Work in the C-WA Zone, at 151 Worth Avenue, Neiman Marcus (Per Letter Dated**
27 **January 27, 2010.)**
28

29 Planning, Zoning and Building Director Page indicated that staff recommended denial of this
30 issue, as no work should occur during season unless there were reasons of safety, insurance, or
31 other extenuating circumstances.

32
33 Discussion occurred among the Town Council Members, Mr. Bob Moore, and Mr. Page
34 regarding approval of the request. Council Member Diamond indicated that the Town should
35 encourage business on Worth Avenue. Mr. Page asked that the conditions in the back-up memo
36 be included if the request was approved. Bob Moore, 420 Santa Fe Rd, West Palm Beach,
37 commented in support of staff and made suggestions relative to the parking and deliveries.
38 Council Member Wildrick stated that the proposed work was not intrusive and when running a
39 fashion business where Worth Avenue was noted worldwide, launching a national item, would
40 need to be first, not second or third.

41
42 **Council Member Wildrick seconded the motion.**
43

Responding to President Pro Tem Coniglio, Mr. Volosin replied that he received approval from the Worth Avenue Association, and received an affidavit from the property owners in the surrounding areas, without any objections.

President Rosow suggested that the Ordinance, Rules and Standards Committee (ORS) review the restrictions on Worth Avenue relative to internal construction.

Upon roll call, the motion carried unanimously.

3. Waiver of Town Code Section 18-242, 105.4.1.6.A., Extension of Agreed Maximum Time Schedule for Completion of Construction, 640 Island Drive (Per Letter Dated January 27, 2010, From Zack Ciomek).

Ex-parte communication was not declared by any members of the Town Council.

Robert Moore, 420 Santa Fe Road, West Palm Beach, provided an overview of the request for a waiver, on behalf of Zack Ciomek.

Planning, Zoning and Building Director Page commented regarding the revised ordinance and suggested that, as the time extension would expire on February 21, 2010, to allow 25 days advance notice to abutting owners of the time extension request. He said work could continue until February 21, 2010, and stop for 2 1/2 weeks until the Town Council could meet and consider the item at the March Town Council Meeting.

Discussion occurred among the Town Council Members regarding the application. Several of the following comments were made:

- The applicant had 20 months to complete the work, and another 10 months were extended onto it because the ordinance was amended. Mr. Ciomek should not be allowed to complete the work until the season had ended; he caused the delay, and the neighbors should not be penalized for it.
- The Ordinance was amended to extend completion of a job from 20 months to 30 months, in order to minimize the request for waivers of extension of time schedule for completion of construction.
- Setting precedent was a concern.
- The applicant was well aware of the rules.
- By granting the extension the house would be completed, which would satisfy the owner and the neighbors.

Mr. Moore requested that the Council allow Mr. Ciomek to send the notification to the neighbors and return to the Town Council Meeting in March for approval.

Responding to President Pro Tem Coniglio, Mr. Page read from the Ordinance and it was determined that it was not a requirement for the applicant to obtain a new permit.

Motion made by President Pro Tem Coniglio that as of February 21, 2010, the building permit would expire as of the March 10, 2010, Town Council Meeting and the neighbors would be notified by certified mail. Council Member Diamond seconded the motion.

Building Official Jeff Taylor suggested changing the word to revoke instead of expire otherwise Mr. Ciomek would have to reapply.

The maker and seconder agreed.

Amended motion made by President Pro Tem Coniglio that as of February 21, 2010, the building permit would be revoked as of the March 10, 2010, Town Council Meeting and the neighbors would be notified by certified mail. Council Member Diamond seconded the motion.

Jere Zenko, 232 Tangier Avenue, commented regarding Mr. Ciomek's behavior as a chronic offender on Tangier Avenue, leaving incomplete work in order to do work elsewhere in the Town.

Mr. Page clarified that, after reading further in the Ordinance, if an extension of time was granted, a new permit application was required and a new permit fee would be paid based upon the value of all remaining work.

Mr. Moore indicated that the remaining work consisted of landscaping, cabinet work, and some of the interior work, and only 30 more days were needed.

Town Manager Elwell pointed out that for today's decision, under the Ordinance, the permit would be revoked on February 21, 2010, all work would cease; the obligation to the builder would apply in the March Town Council Meeting.

Motion withdrawn.

Motion made by Council Member Diamond to deny the request for waiver of Town Code Section 18-242, 105.4.1.6.A., Extension of Agreed Maximum Time Schedule for Completion of Construction, 640 Island Drive, and the applicant would return to the March 10, 2010, Town Council Meeting to request approval for a waiver of time extension. Council Member Wildrick seconded the motion. On roll call, the motion carried unanimously.

C. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business- Less Than 15 Minutes

None

2. New Business- Less Than 15 Minutes

- a. SITE PLAN REVIEW#1-2010 WITH SPECIAL EXCEPTION AND VARIANCES The application of The Town of Palm Beach, relative to property commonly known as 150 Worth Avenue; described as lengthy legal description on file; located in the C-WA Zoning District. Request for Site Plan Approval with Special Exception to construct a two story garden wall and landscape/hardscape changes to the west side of 150 Worth Avenue. The Variance requests are for the Saks Fifth Avenue business identification sign on the store's west facade to be relocated to a height of 26.92 feet in lieu of the 16.5 feet existing and the 15 feet maximum allowed to accommodate the two story garden wall and a landscaped open space variance for the hardscape which reduces the existing landscaped open space from 12.82% of the parcel to 12.17% of the parcel in lieu of the 25% minimum required [Attorney: Harvey Oyer III.][ARCOM Recommendation: Approval of the plan as presented. Carried 8-0.]

This item, VII.C.2.a., was heard after VII.D.1., Request from Landmarks Preservation Commission to Obtain Additional Legal Advice, Time Certain: 10:00 a.m.

Ex-parte communication was not declared by any members of the Town Council.

Attorney Harvey Oyer, III, Shutts Bowen, on behalf of the Town, provided an overview of the request. He submitted, for the record, pictures of the living wall.

Planning, Zoning and Building Director Page noted that staff supported the application and that it was consistent with previous approvals for the Worth Avenue Improvement project.

Motion made by Council Member Diamond that Site Plan Review#1-2010 With Special Exception And Variances, be approved based upon the finding that the approval of the site plan will not adversely affect the public interest and that the Council certified that the specific zoning requirements governing the individual use had been met and that satisfactory provision and arrangement had been made concerning Sec. 134-329, items 1 through 11. Council Member Kleid seconded the motion. On roll call, the motion carried unanimously.

Motion made by Council Member Diamond that within Site Plan Review#1-2010 the Special Exception shall be granted based upon the finding that such grant would 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.

Council Member Diamond moved that within Site Plan Review#1-2010 the Variances, be granted and found, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201(a), items 1 through 7 had been met. Council Member Kleid seconded the motion. On roll call, the motion carried unanimously.

3. Old Business- More Than 15 Minutes

- a. VARIANCE #29-2009 The application of Maura A. Ziska, Attorney for Liza B. Risin; relative to property commonly known as 206 Seaspray Avenue; described as Lots 457 and 459, POINCIANA PARK SECOND ADDITION, according to the Plat thereof on file in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, recorded in Plat Book 6, Page 86; located in the R-B Zoning District. Request approval of a variance to allow construction of a 796 square foot two story addition for a garage and master bedroom with a west side yard setback of 5.2 feet in lieu of the 15 foot minimum required. [Attorney: Maura A. Ziska, Esq.] [ARCOM Recommendation: Approval of option B. Carried 6-1.]Deferred from the December 16, 2009, Town Council Meeting.

Ex-parte communication was declared by:

- Council Member Wildrick that Piper Quinn called him to say that he was opposed to it.
- President Pro Tem Coniglio spoke to Piper Quinn, Katy Pressly, Mary Pressly, received all of the letters of objection in the packet, and watched the presentation at the Architectural Commission (ARCOM).
- President Rosow spoke to Piper Quinn and Katy Pressley, who objected to it.
- Council Member Kleid received all of the correspondence and Mr. Quinn called him, but they never made contact.
- Council Member Diamond attended the ARCOM meeting and received copies of the correspondence.

Attorney Maura Ziska, representing Dr. and Mrs. Risin, provided an overview of the request. ARCOM approved the project. After the fact, she said it was brought to her attention that the neighbors had sent letters of objection, and that they had not seen the new plan B. She sent copies by Federal Express on February 2, 2010.

Town Clerk Cunningham administered the oath to Architect Mike Perry who would be providing testimony.

Architect Mike Perry provided a presentation of Plan B.

1 Planning, Zoning and Building Director Page indicated that the project was referred to ARCOM,
2 as there were concerns about the narrow width of the lot. Immediately after the ARCOM
3 meeting, staff found that there were communications from two residents that had not been read
4 into the record. As a result of the mail routing system, staff was not aware of the letters and they
5 were not included in purple packets. Several property owners were upset that they did not have a
6 chance to look at option B nor were the letters of concern read into the record. For that reason, he
7 wanted to make the Council aware of them.

8
9 Zoning Administrator Castro provided a site history of the property. He noted that previous
10 variances were granted and the additions were put on the house. In addition, staff only received
11 the plans for this project on Friday. The Development Review Committee did not have the
12 opportunity to review the plan and provide comments on the revised location, and it was unclear,
13 from staff's perspective, how the change in the plans and moving the addition impacted the
14 neighbor. The issue was obtaining proper review from the Town, prior to coming to the Council.
15 Typically in these types of situations, staff would recommend a deferral of the project in order
16 that the plans could be reviewed by staff.

17
18 Town Clerk Cunningham administered the oath to Katy Pressly who would be providing
19 testimony.

20
21 Katy Pressly, Seaspray Avenue resident for 38 years, commented in opposition to the variance
22 and did not see any hardship. The architectural integrity of the street did not have any connective
23 garages, as the garages were detached from the homes. She said that the home was too dense for
24 the lot size.

25
26 Attorney Ziska responded that the hardship runs with the land and was the hardship on all of the
27 "Sea" streets that had been before the Council many times. She indicated that here were
28 nonconforming tight lots and existing houses that did not meet today's code. The Council had
29 granted variances in the past for side yard setbacks and rear yard setbacks in order to
30 accommodate the small lots and for families to update the homes with today's living standards.
31 With regard to density it was under cubic content ratio, which was a very small 500 plus square
32 foot addition, which went to ARCOM, was 50 feet off the street, and could barely be seen.

33
34 Responding to President Pro Tem Coniglio, Architect Perry related the difference between the
35 original plans (A) vs. the Plan B option.

36
37 Responding to President Pro Tem Coniglio, Attorney Ziska commented that the neighbors were
38 not notified regarding Plans A and B, as there was a time crunch.

39
40 Architect Perry presented the whole site relationship to the neighbors, at President Pro Tem
41 Coniglio's request.

42
43 President Pro Tem Coniglio expressed concerns regarding the lack of site history, that staff did
44 not see this in order to provide their input prior to the ARCOM presentation, nor did the
45 neighbors see it; there were neighbor's objections, and finally a hardship.

Motion made by Council Member Diamond that because the full facts were not presented at the time that ARCOM heard this matter, that it be referred back to ARCOM, and would allow enough time for staff to review and to bring forward at the next meeting of ARCOM.

President Pro Tem Coniglio indicated that it would not change the ARCOM process. She said she would like to deny the application.

Motion dies for lack of a second.

President Pro Tem Coniglio moved that Variance #29-2009, be denied for the reason that the application did not meet the criteria set forth in Section 134-201(a), items 1 through 7. Council Member Kleid seconded the motion. On roll call, the motion carried 4-1, with Council Member Diamond dissenting.

b. VARIANCE #30-2009 The application of Maura A. Ziska, Attorney for St. George Investments, LLC (Wayne Ducote); relative to property commonly known as 1470 North Lake Way; described as lengthy legal description on file; located in the R-A Zoning District. Request approval of variances to (1) construct a dock and associated appurtenances a maximum of 244 feet west of land in lieu of the 150 foot maximum allowed; (2) for a side yard setback for triple dolphin piles to be 15 feet from the south property line and 15 feet from the north property line in lieu of the 25 foot minimum required; (3) to allow an accessory structure (dock) to be built on a parcel of land that has no principal structure. [Maura A. Ziska, Esq.]Deferred from the December 16, 2009, and January 13, 2010, Town Council Meetings.

President Rosow recused himself, as he is a neighbor of the applicant, and passed the gavel to President Pro Tem Coniglio. He completed form 8b, provided it to the Town Clerk and left the dais.

Ex-parte communication was declared by:

- Council Member Diamond received a tour of the site by Mr. Wayne Ducote.
- President Pro Tem Coniglio had a phone conversation and a tour of the property by Mr. Ducote, and a conversation with Mrs. Rosow.
- President Rosow had a conversation with Mr. Ducote and Attorney Ziska.
- Council Member Kleid received a contribution to his campaign from Mr. Ducote.

Attorney Ziska, representing the applicant, provided an overview of the request. She noted that she submitted a Memorandum of Law with ten exhibits to the Town Clerk, which was in the record, and that she would use it and the Board's to explain the presentation.

1 Town Clerk Cunningham administered the oath to Wayne Ducote and Charles. Isiminger who
2 would be providing testimony.

3
4 Mr. Ducote noted that the measurements were taken at 100 foot increments at 150 feet from
5 shore, to demonstrate the depth of every property. There were approximately 80 properties in the
6 10,000 feet of measurements.

7
8 Attorney Ziska mentioned that they were unable to work out a solution with neighbor, Mr.
9 Phipps.

10
11 Attorney Ziska presented photographs of the seawall differentials and views of the area.

12
13 Staff Comments:

14
15 Zoning Administrator Castro made several of the following comments:

- 16
17 • Two of the three variances were related to setbacks.
- 18
19 • The variance on the north side of the property was being eliminated in order to allow a
20 smaller boat capacity on the dock location.
- 21
22 • The other variances related to the setback from land, which was required to be 150 feet.
23 The Code indicated that the structure was required to be 150 feet from the bulkhead line
24 or land, whichever was closer.
- 25
26 • Going beyond the pier head line was not allowed, but the proposed dock was not going
27 beyond it.
- 28
29 • The cove area was unique and odd shaped, the exhibit showed that most of the docks on
30 the north end of the island, line up with the bathometrics to get the depth needed for their
31 boats.
- 32
33 • In this case, 150 feet from the shoreline did not provide enough depth in the water for Mr.
34 Ducote's size boat, which provided the hardship that was unique to the lay of the land at
35 the location.
- 36
37 • The variances six criteria's needed to be met and he had not yet heard that testimony.

38 --

39 Attorney Ziska pointed out that she addressed the hardship in her memorandum and earlier
40 today.

41
42 Attorney Timothy Hanlon, on behalf of Mr. Phipps at 1486 N. Lake Way, provided an overview
43 of the application.

44
45 Discussion continued among Council Member Wildrick, President Pro Tem Coniglio, and Mr.
46 Ducote regarding the dock.

Zoning Administrator Castro stated, for the record that if Mr. Wilson, Mr. Ducote's neighbor, rebuilds his dock, there may be some zoning issues.

Council Member Wildrick moved that Variance #30-2009, be granted and found, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201(a), items 1 through 7 had been met for (1) construct a dock and associated appurtenances a maximum of 244 feet west of land in lieu of the 150 foot maximum allowed. Council Member Kleid seconded the motion.

Attorney Hanlon, indicated that he needed, for the record, clarification of the hardship for the variance request.

Mr. Castro noted that there were three variances. One, which was eliminated, was the north side yard setback. Second, the variance for the length of the dock from land was still necessary and third, the variance to allow an accessory structure without the principle structure was also necessary. He did not have a full size set of plans of the proposal the Council was about to adopt. It would need to be left with him, if that was the intent.

Responding to Council Member Wildrick, Mr. Ducote noted that he did need to build the dock before the house, as his land was lower than Mr. Rosow's, and he would have to raise his land in order to comply with the flood elevation requirement, and the cap of the flood wall needed to be replaced.

Council Member Wildrick commented that the variance he referenced was the length of the dock only, not as the variance as it related to the dock without a structure. He noted that Mr. Ducote would have to return when he had the structure.

Council Member Diamond mentioned that he only opposed the length of the dock, not the house.

On roll call, the motion carried 3-1.

President Rosow	Recused
President Pro Tem Coniglio	Yes
Council Member Diamond	No
Council Member Kleid	Yes
Council Member Wildrick	Yes

Council Member Diamond moved that Variance #30-2009 be granted and found, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201(a), items 1 through 7 had been met for (2) for a side yard setback for triple dolphin piles to be 15 feet from the south property line and 15 feet from the north property line in lieu of the 25 foot minimum required. Council Member Kleid seconded the motion. On roll call, the motion carried 4-0, with President Rosow recused.

Zoning Administrator Castro requested that if the Council moved forward on the variance request, that there be an agreement that the dock not be used until the house was constructed and a Certificate of Occupancy was issued.

Council Member Diamond moved that Variance #30-2009 be granted and found, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201(a), items 1 through 7 had been met for (3) to allow an accessory structure (dock) to be built on a parcel of land that has no principal structure, provided that the dock not be used until such time that the main structure be granted a Certificate of Occupancy. Council Member Wildrick seconded the motion. On roll call, the motion carried 4-0, with President Rosow recused.

4. New Business- More Than 15 Minutes

- a. SPECIAL EXCEPTION #2-2010 The application of Thomas Campaniello; relative to property commonly known as 288 S. County Road; described as Lot 35 except south 75 feet thereof and the east 13 feet of Lot 36, except south 75 feet thereof in Block E of Revised Map of Royal Palm Addition to Palm Beach, Florida according to the Revised Plat thereof on file in the office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, recorded in Plat Book 4, page 1; located in the C-TS Zoning District. Request for Special Exception to permit the restaurant at that location to place six, two-seat tables (12 seats) on the sidewalk against the building on the South County Road side. Request that these twelve seats, which were originally approved to be inside the building, be relocated to the outside. The hours of operation for outdoor dining will be for lunch from 11:30 a.m. to 2:00 p.m. and for dinner from 6:00 p.m. until 10:30 p.m.

Ex-parte communication was not declared by any members of the Town Council.

Architect Michael Mosher, representing Mr. Campaniello, provided an overview of the request.

Several Members of the Council, expressed concerns regarding whether there would be enough space for outside seating of the Restaurant.

Staff Comments:

Zoning Administrator Castro made several of the following comments:

- Building tenants do not receive notice, only property owners receive notice of the application, for the record.
- Read a letter from Police Captain John Maio regarding that outdoor seating was not recommended.

- Public Works comments were that they did not recommend the table on the corner seating near the intersection.
- Planning Administrator Lindgren comments were that any changes to the building, which the planters would have to be removed, would require Landmarks Preservation Commission and ARCOM's review and approval, including any proposed lighting and/or removal of planter boxes, or any other proposed awnings.
- If considered for approval, the application would need to be limited in hours, which was proposed in the application, as well as no outside music, which were not allowed at any of the Town's outdoor seating areas.
- Town Manager's comments were that sufficient space must be maintained to keep the valet parking stand fully functional unless applicant proposes doing another valet area.

Discussion occurred among the Council Members and Mr. Campaniello regarding the safety of the proposed outdoor seating.

Mr. Campaniello responded to questions and comments by the Council.

Council Member Wildrick moved that Special Exception #2-2010 be denied for the reason that the granting of the special exception would adversely affect the public interest and that the specific requirements of Section 134-229 had not been met. Council Member Kleid seconded the motion. On roll call, the motion carried 4-1, with Council Member Diamond dissenting.

D. Other

1. Request from Landmarks Preservation Commission to Obtain Additional Legal Advice.
TIME CERTAIN: 10 A.M.

Planning, Zoning and Building Director Page provided an overview of the request for legal advice.

Town Attorney Randolph provided a written statement, which was responsive to the request, and read the following statements into the record:

At a meeting of the Town Council on May 11, 2009, in response to questions regarding whether the Council would allow the owner and lessee of the Royal Poinciana Plaza to make a presentation before the Landmarks Preservation Commission prior to the amendment of the zoning and comprehensive plan, a motion was made and carried unanimously, as follows:

1 "that the Landmarks Preservation Commission be the first Town body to consider,
2 in its fullness, the application of the Sterling Group and that [the] Landmarks
3 Preservation Commission consider that application without regard to potential
4 future changes to the 1979 Agreement, the comprehensive plan or the zoning
5 ordinance of the Town, but rather focus on the architectural and historic
6 preservation consideration that was within their jurisdiction."
7

8 The intent of this motion was to provide direction in regard to architectural and
9 historic preservation considerations prior to the LPA, the Planning and Zoning
10 Commission and the Town Council going through the exercise of considering
11 comprehensive plan changes or rezoning, or considering changes to the 1979
12 Agreement. It makes eminently good sense to have the Landmarks Preservation
13 Commission consider the architectural and historic preservation aspects of this
14 matter since, if there is no agreement in regard to the landmarking aspects of this
15 project, there may be no need to consider comprehensive plan and zoning
16 amendments or an amendment to the 1979 Agreement.
17

18 John Eubanks contends in his letter to Eugene Pandula, dated January 15, 2010,
19 and in a separate undated memorandum, that the Council's motion is legally
20 improper. I disagree. The Council has the authority to request its Landmarks
21 Preservation Commission to consider the application for a Certificate of
22 Appropriateness for the limited purpose stated in order that the Commission can
23 provide direction to the Council and to the applicant. It appears that Mr. Eubanks'
24 primary concern is that by referring this matter to the Landmarks Preservation
25 Commission, it is asking the Commission to perform an illegal act. His opinion is
26 based, in part, on the fact that under Chapter 163, Florida Statutes, development
27 orders must be consistent with the Town's comprehensive plan. That is a correct
28 statement of the law. But, the Town Council has not asked the Landmarks
29 Preservation Commission to approve a development order, in this case the
30 Certificate of Appropriateness, nor has it given any specific direction to the
31 Commission as to what action to take. It has only asked the Commission to
32 consider the application limiting its jurisdiction to historical and architectural
33 considerations.
34

35 Section 54-71 of the Town's code relating to the powers of the Commission, in
36 regard to Certificates of Appropriateness, provides that the Commission shall
37 exercise those powers and duties assigned to it by the Town Council. In
38 exercising those powers it cannot do so in a way that is contrary to law. To
39 approve the application effectively immediately would be contrary to both state
40 law and Town law as the application is inconsistent with the Town's
41 comprehensive plan, its zoning ordinance and the 1979 Agreement. A Certificate
42 of Appropriateness is a development order, by definition, under state law.
43 Because development orders must be consistent with the existing comprehensive
44 plan, the Certificate of Appropriateness cannot be issued nor can it be effective
45 until it comes into compliance with the comprehensive plan, the zoning ordinance
46 an the 1979 Agreement.. To approve the application would give cause to an

1 aggrieved or adversely affected party to appeal and challenge the consistency of
2 the Certificate of Appropriateness (the development order) with the
3 comprehensive plan.

4
5 Of significance is Section 54-94 of Article III of the Town's code relating to
6 consideration of Certificates of Appropriateness which provides that:

7
8 "Evidence of approval of the application shall be by Certificate of
9 Appropriateness issued by the Commission, . . ."

10
11 Pursuant to this section, approval does not become effective until issuance of a
12 Certificate of Appropriateness and because a Certificate of Appropriateness
13 cannot be issued until it is consistent with the Town's comprehensive plan, neither
14 can approval be effective before the application is consistent with the Town's
15 comprehensive plan.

16
17 Approval, if any, would have to be made with conditions that the approval would
18 only become effective subsequent to appropriate amendments to the Town's
19 comprehensive plan, its zoning ordinance and the 1979 Agreement. In fact, it
20 might be better to refer to the conditions not as conditions but, as requirements
21 necessary to be met before any approval becomes effective.

22
23 Mr. Eubanks contends, however, the application cannot be approved
24 conditionally, first, because the ordinance describing the action which can be
25 taken by the Commission when considering a Certificate of Appropriateness
26 include only approval, denial or deferring action until the next meeting of the
27 Commission and, second, because even an approval with conditions may be
28 interpreted as an approval of a development order in derogation of the law.
29 Indeed, I would be remiss to advise you that this argument cannot be made. I fall
30 on the side, however, that it is not inappropriate for an approval to be made
31 effective on the happening of a future event or events, in this case the adoption of
32 a comprehensive plan amendment, the zoning ordinance and the 1979 Agreement.
33 Our own Circuit Court, in a case which attacked a development order approved
34 effective upon the comprehensive plan being amended, held there is nothing
35 inherently improper about making a law's effectiveness contingent on the
36 happening of a future event.

37
38 The Council has not directed a specific outcome. It has directed only that the
39 Landmarks Preservation Commission consider this matter and it must consider it
40 based upon the criteria set forth in the code.

41
42 In the final analysis, the Town Council has the right to refer this matter to its
43 Landmarks Preservation Commission for consideration and the Landmarks
44 Preservation Commission has the right to consider the application. There is
45 nothing in Town code which prevents consideration prior to the comprehensive
46 plan, the zoning ordinance or the 1979 Agreement being amended. It may be

1 likened to the Town Council referring a variance matter first to the Architectural
2 Commission before the Council considers the variance so it can have the input of
3 ARCOM before it acts.

4
5 It has been suggested that it would set a dangerous precedent for the Landmarks
6 Preservation Commission to consider an application which is not in compliance
7 with the Town's comprehensive plan or zoning ordinance. However, as I have
8 advised the Council in the past, each application should be considered on its own
9 merits and entertained on the basis of the uniqueness of that application. If
10 someone in the future can allege that they have a substantially similar or identical
11 set of circumstances then, indeed, they may request that they be treated in the
12 same manner as the applicant in this case and that they be allowed to have their
13 application considered before the comprehensive plan or zoning ordinance is
14 amended.

15
16 The ultimate issue rests not with the Council asking the Landmarks Preservation
17 Commission to consider this application first, prior to the Council considering
18 other issues, but with the action ultimately taken by the Landmarks Preservation
19 Commission after consideration. Clearly, a Certificate of Appropriateness cannot
20 issue until the comprehensive plan, the zoning ordinance and the 1979 Agreement
21 have been amended. Therefore, Mr. Eubanks' stated fears that consideration of
22 this application may lead to construction prior to the comprehensive plan, the
23 zoning ordinance and the 1979 Agreement being amended are unfounded.

24
25 Finally, I would comment on Mr. Eubanks' stated fears that to approve any part of
26 this application would put in jeopardy the 1979 Agreement which contains a
27 provision that if changes are made by the Town which allow for further
28 development opportunities, the Agreement becomes null and void. Because
29 approval, if any, cannot become effective until the 1979 Agreement has been
30 amended, I do not believe that is a risk. However, it is my suggestion that before
31 this application is entertained by the Landmarks Preservation Commission, the
32 owner and the lessees enter into an agreement that, if any approval is granted,
33 which approval can only become effective upon a future date, such approval does
34 not create additional development opportunities as referenced in the 1979
35 Agreement, is not considered a development order and does not create any
36 expectations beyond those that already exist in the 1979 Agreement, the
37 comprehensive plan and the Town's zoning code and that action of the Landmarks
38 Preservation Commission shall not be considered passage of a regulation which
39 would invoke the provisions of the Bert Harris Act.

40
41 Town Attorney Randolph explained further regarding his role as legal counsel to the Town.

42
43 Discussion occurred among the Town Council Members, Town Attorney Randolph, and Mayor
44 McDonald. Council Member Wildrick said, for the record, that there was a lot of discussion
45 regarding integrity of the Council and Board and Commission members; he said it needed to
46 stop, and that the Town should come together. All of the Town Council Members indicated that

1 they were opposed to having another attorney for a board or commission, with the exception of
2 Council Member Diamond who was in favor of it.

3
4 Attorney John Little, Sterling Palm Beach, LLC, indicated that a discussion was held with Town
5 Attorney Randolph regarding the conditions that were outlined, and that they were in agreement.

6
7 Jeffrey Burkhauser, representing Sterling Palm Beach, LLC, said he was opposed to the request
8 for a second attorney and responded to the allegations in Mr. Eubanks letter.

9
10 Attorney John Eubanks provided a rebuttal to Town Attorney Randolph's statement.

11
12 **Motion made by Council Member Wildrick to deny the request for the Landmarks**
13 **Preservation Commission to obtain additional legal counsel. President Pro Tem Coniglio**
14 **seconded the motion.**

15
16 Gene Pandula, Landmarks Preservation Commission, commented regarding the request by the
17 applicant for a vote, which he said trapped the Commission. He expressed the concerns of the
18 Commission of going on record with a finite decision.

19
20 Council Member Wildrick indicated that Mr. Pandula's concern should be addressed after the
21 Council voted.

22
23 **On roll call, the motion carried 4-1, with Council Member Diamond dissenting.**

24
25 **Motion made by Council Member Kleid that the Town Council did not approve the use of**
26 **private money to hire legal counsel by any advisory board. Council Member Wildrick**
27 **seconded the motion. On roll call, the motion carried 4-1, with Council Member Diamond**
28 **dissenting.**

29
30 **Motion made by Council Member Wildrick that all boards and commissions take the same**
31 **oath of office as the Town Council.**

32
33 Discussion occurred among the Town Council, Town Attorney Randolph, and Town Manager
34 Elwell regarding all the boards and commissions taking the same oath of office as the Town
35 Council. Council Member Wildrick noted that it was appropriate for everyone to follow the same
36 procedure; Council Member Diamond was not in favor of it as there was a difference in elected
37 and appointed officials. Mr. Elwell clarified that under the code, the oath of office applied to
38 appointed administrative officials or staff members; he said that the boards and commissions do
39 not take the oath.

40
41 **Council Member Kleid seconded the motion.**

42
43 Charles Roberts, 301 Australian Avenue, commented that it was an excellent idea and he would
44 be happy to take an oath.

45
46 **On roll call, the motion carried 4-1, with Council Member Diamond dissenting.**

a. Landmarks Preservation Commission Responsibilities Discussion.
[Richard M. Kleid, Town Council Member]

Planning, Zoning and Building Director Page announced the members names that were missing from the audience of the Landmarks Preservation Commission.

Council Member Kleid provided an overview of the discussion relative to Town Attorney Randolph's letter that he read regarding the indemnification ordinance and the quasi judicial nature of the hearing.

Town Attorney Randolph briefly provided comments, rather than re read his letter, in order to clarify that, even without the Town's indemnification ordinance, the various commissioners had immunity from their actions taken on behalf of the Town. The ordinance bolstered the indemnification and the commissioners' had the ability to be represented by a lawyer, at the expense of the Town. The quasi judicial process was that the commissioners and board members were sitting as judges, not in a legislative capacity, passing ordinances and making legislation, as the Town Council may from time to time, but acting on the basis of certain criteria that were set forth in the code. The decision was not made based upon personal opinion; the determination was made by the criteria set in the code. Ex-parte communications were announced at the meetings, including whom you had them with and the subject.

Discussion occurred among the Town Council, Mayor McDonald, and Town Attorney Randolph. Mayor McDonald stated that he did not think that the Council should force anything on an advisory commission without having the same responsibility. If it was not expected for the commissioners to make pre statements, the Council Members should not be making pre statements, either. Town Attorney Randolph indicated that the standards for the boards and commissions were the same as the Town Council.

Kleid stated that, for the record, since he was involved in a very competitive re-election bid, he was very careful, not to give his opinion. He said that he received criticism because of it. He stated that it was not necessary to give an opinion and that candidates should not express their opinion because it created a pre-conceived opinion, when placed in quasi judicial situation.

Landmarks Preservation Commissioner Joanna Golino provided her comments.

Discussion continued and several of the following comments were expressed by the Council Members, the Mayor, and Town Attorney Randolph:

- The Comprehensive Plan was the law regardless of the actions of the Landmarks Preservation Commission;
- Town Attorney Randolph responded to Ms. Golino's issues regarding the substance of any argument made, attacking, and any kind of approval by Landmarks Preservation Commission.

- 1 • Town Attorney Randolph stated his position and provided information in order to make
2 the legal issue very well known to the Landmarks Preservation Commission.
3
- 4 • Any approval that the Landmarks Preservation Commission gave could not be effective
5 until certain requirements had been met. The applicant should come back before the
6 Landmarks Preservation Commission once the requirements had been met.
7
- 8 • The Town was asking Sterling Palm Beach, LLC to spend great sums of money and keep
9 coming back for approval. It was alarming that people were not objective despite what
10 they were saying.
11
- 12 • It was up to the Council to evaluate the project, not the Landmarks Preservation
13 Commission to make the final decision.
14
- 15 • Previously discussed with Town Attorney Randolph that the property was under the
16 purview of the Landmarks Preservation Commission, i.e., any request for an alteration,
17 change and anything that occurs on the property of the Plaza, would automatically go to
18 the Landmarks Preservation Commission first.
19
- 20 • It would be unwise for the Council to amend the Comprehensive Plan that would allow
21 for a number of units in a CTS district or to change the parking requirements. The
22 Planning and Zoning Commission could change the zoning and the 1979 Agreement
23 could be renegotiated without having completed the first step, which was the Landmarks
24 Preservation Commission, as with any landmarked property.
25
- 26 • The Town Council could not override the basic state law, which indicated that the
27 applicant should go through the normal process as every other applicant. Sterling Palm
28 Beach, LLC should not be treated different from other applicants.
29
- 30 • By state law, the only body that could issue a Certificate of Appropriateness was the
31 Landmarks Preservation Commission.
32
- 33 • It was a unanimous decision of the Council to assign this project to the Landmarks
34 Preservation Commission, who needed to follow the rules and get it resolved.
35
- 36 • The community wanted to see a full application and if it was delayed much longer , the
37 residents would not have an opportunity to see it before they returned.
38
- 39 • A decision would have to be made regarding demolition, as a landmarked building could
40 not be demolished.
41

42 Jere Zenko, 232 Tangier Avenue, commented regarding that the Landmarks Preservation
43 Commission voted 7-0 for the Town Council to move forward with the landmarking process.
44 The process was conditioned upon recommendations that Town Attorney Randolph made and

appeared to have been incorporated. Council Member Kleid voted against landmarking the property.

Council Member Kleid noted that the record would show that he was opposed to landmarking the entire plaza; in favor of landmarking the two parallel buildings, the eastern façade of the building, and the cupola. He said if the Town Council went along with his partial landmarking of the premises, he wanted it to go through Landmarks Preservation Commission not be divided between ARCOM and Landmarks Preservation Commission.

Motion made by President Pro Tem Coniglio, seconded by Council Member Kleid, to authorize Town Attorney Randolph to examine the agreement to determine that it would not be considered for further development opportunities under the 1979 Agreement, that any approval was not considered to be a development order and that it did not raise any Bert Harris Act claims that did not already exist, which would be done prior to the February 17, 2010, Landmarks Preservation Commission meeting. On roll call, the motion carried 4-1, with Council Member Diamond dissenting.

Attorney Little provided a list of names and organizations that would receive financial benefit from the development of the project.

President Rosow indicated that the Council needed to know if the lessor had a financial benefit from anything that occurred on the property other than his normal lease payments.

Council Member Wildrick commented that the Council wanted everything on the table in order to clear the way to move forward.

President Rosow read the remaining names on the list that would have financial benefit from the project.

Town Manager Elwell explained the handling of the overflow crowd at the last and upcoming Landmarks Preservation Commission meeting on February 17, 2010. He noted that arrangements could be made for off-site, but there would not be live audio.

Discussion ensued regarding polling for internal use of the theater; hiring a consultant, by the Town, to conduct the survey/study; and whether it would be better to wait until the next step of the process before adding more data.

Town Attorney Randolph noted that the Town Council had a quasi judicial process in effect in front of Landmarks Preservation Commission; the question related to use vs. demolition of a building, the effect a survey would have on the quasi judicial process now ongoing and the criteria to be considered in determining whether or not to allow demolition.

2. Status Report Regarding the Donner Project. [John C. Randolph, Town Attorney]

03:48:50

Town Attorney Randolph provided an update of the project and provided the following information:

The applicant requested authorization to fill 2.03 acres of a 2.5 acres parcel of submerged land in the Lake Worth Lagoon. The South Florida Water Management District (SFWMD) denied the application. The applicant used a small section of the Bert Harris Act, which allowed for mediation as opposed to litigation and asked for a magistrate to consider the matter of the rejection of his application. The magistrate entered an order, which the Council had not heard about, which entered the Town, trustees of the internal improvement fund, Palm Beach County and other parties as required parties to the mediation. The reason the Town was entered as there was a lawsuit previously with Donner, whereby Donner sued us for the staff not processing his application because he did not meet the Town's requirements. The Town won the lawsuit and the SFWMD was taking the position that it's important for Palm Beach to be a party to this mediation so it could be involved in stating its position in this case. The Town has 15 days from the time the magistrate enters his order for us to be a party to respond. Part of the response, if the Town wished to be dropped as a party would be to so advise them and provide the reasons. Staff was not of the inclination that the Town would wish to be dropped; the Town should stay involved and state the Town's position in that regard.

It was the consensus of the Town Council that Town Attorney Randolph should represent the Town in the mediation.

IX. ANY OTHER MATTERS

This item was deferred from the February 9, 2010 Town Council Meeting.

RESOLUTION NO. 23-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Construction Manager At-Risk Contract to Burkhardt Construction, Inc., for Worth Avenue Streetscape and Infrastructure Improvements.

Construction Contract of Worth Avenue Improvement Program.

Public Works Director Brazil provided a brief overview and indicated that the project was currently under budget from approximately \$14 million to \$13,124,561 with Burkhardt Construction, Inc.

Responding to President Rosow, Deputy Town Manager Bradford indicated that if the project comes under budget, there were two choices of how to handle the excess money:

1. Some of the Bonds could be bought back and pay them early; or
2. The excess money could be used, once the Town Engineer had documented for the record that the funds were not needed to complete the project. The funds could be used to help pay the debt service on the Bonds that were issued.

Town Attorney Randolph read Resolution No. 23-10 by title, as printed above.

1
2 **Motion made by Council Member Diamond, seconded by Council Member Kleid to**
3 **approve Resolution No. 23-10. On roll call, the motion carried unanimously.**
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11 X. ADJOURNMENT

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25
There being no further business, the February 10, 2010 Town Council Meeting was adjourned at
1:30 p.m.

APPROVED:

David A. Rosow
Town Council President

ATTEST:

Joanna Cunningham
Town Clerk

TOWN OF PALM BEACH

Town Council Meeting on: March 9, 2010

Section of Agenda

Consent Agenda

Agenda Title

Approval of the Minutes of the Special Town Council Meeting held on February 10, 2010.

Presenter

Joanna Cunningham, Town Clerk

Supporting Documents

- Minutes of the Special Town Council Meeting held on February 10, 2010

**MINUTES OF THE SPECIAL TOWN COUNCIL MEETING
HELD ON WEDNESDAY, FEBRUARY 10, 2010**

I. CALL TO ORDER AND ROLL CALL

The Special Town Council Meeting was called to order on Wednesday, February 10, 2010, at 1:39 p.m., at 355 S. County Road, Palm Beach, Florida 33480, in the Central Fire Station, in the Emergency Operations Center (EOC). On roll call, all elected officials were found to be present except for Mayor McDonald.

II. APPROVAL OF AGENDA

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

III. FRED MENGONI VS TOWN OF PALM BEACH, CASE NO. 502002CA009872 AF, CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT IN AND FOR PALM BEACH COUNTY, FLORIDA.

F.S. 286.011(8) Allows the Mayor, Town Council, and the Town Manager to Meet in a ClosedDoor Attorney/Client Session for the Purpose of Discussing Strategy Related to Litigation.

Town Council President Rosow Announced:

- a.) The Attorney/Client Closed-Door Session
- b.) The estimated time is thirty minutes
- c.) The names of the persons attending:

Gail Coniglio, Town Council Member
William J. Diamond, Town Council Member
Richard M. Kleid, Town Council Member
David A. Rosow, Town Council Member
Robert N. Wildrick, Town Council Member
Jerry Stouck, Attorney (Attending via phone)
John C. Randolph, Town Attorney

Peter B. Elwell, Town Manager

Ley and Marsaa, Court Reporters

- d.) Persons attending the meeting (listed above) relocate from the Emergency Operations Center to the Administrative Conference Room.

At 1:40 p.m., the attendees relocated into the Administrative Conference Room.

IV. RECONVENE SPECIAL TOWN COUNCIL MEETING IN THE EMERGENCY OPERATIONS CENTER

A.) Call to Order

The Special Town Council meeting was reconvened at 2:16 p.m., in the Emergency Operations Center.

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 indicated that they had received a report from the Attorney on the status of the litigation. The Town Council provided ongoing instructions.

V. ANY OTHER MATTERS

There were none.

VI. ADJOURNMENT

There being no further business, the February 10, 2010, Special Town Council Meeting was adjourned at 2:17 p.m.

APPROVED:

David A. Rosow
Town Council President

ATTEST:

Joanna Cunningham
Town Clerk

TOWN OF PALM BEACH

Town Council Meeting on: March 9, 2010

Section of Agenda

Consent Agenda

Agenda Title

Approval of Major Matters Considered by the Architectural Commission at its Meeting of February 24, 2010.

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Memorandum dated March 1, 2010 from John S. Page, Director of Planning, Zoning & Building
- Minutes of the Architectural Commission Meeting of February 24, 2010

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 9, 2010

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 February 24, 2010

Date: March 1, 2010

STAFF RECOMMENDATION

Staff recommends that the Town Council approve the major items that were approved by ARCOM at the regularly scheduled meeting of February 24, 2010.

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 February 24, 2010.

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
AT THE
EMERGENCY OPERATIONS CENTER
355 SOUTH COUNTY ROAD, PALM BEACH

WEDNESDAY, FEBRUARY 24, 2010, 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 (CD) 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(9:00:00 a.m.)

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

II. ROLL CALL(9:00:00 a.m.)

All regular members and all alternate members of the Architectural Commission were present, excepting Ms. Diver (unexcused) and Mr. Karakul (absence pending classification.) In the absence of those two members, all remaining members served as voting members for purposes of today’s hearings.

Let the record show that two court reporters were present: Robin L. Merker for the 1100 North Ocean Boulevard project (hired by Attorney James Greene), and Rachele Cibula for the 2315 South Ocean Boulevard project (hired by Attorney Ray Royce.)

III. PLEDGE OF ALLEGIANCE(9:00:11 a.m.)

IV. APPROVAL OF THE MINUTES FROM THE JANUARY 27, 2010 MEETING(9:00:31 a.m.)

MOTION BY MRS. VANNECK FOR APPROVAL OF THE MINUTES, CORRECTING THAT SHE BE RECORDED AS "MRS." VANNECK RATHER THAN "MS".
MOTION SECONDED BY MR. ZUKOV.
MOTION CARRIED UNANIMOUSLY.

V. ADMINISTRATION OF THE OATH TO PERSONS WHO WISH TO TESTIFY:(9:01:00 a.m.)

Mrs. Delp administered that oath to all those who wished to testify. The oath was administered several times during the meeting, as needed.

VI. OTHER BUSINESS

None

VII. PROJECT REVIEW(9:03:11 a.m.)

A. MAJOR PROJECTS - OLD BUSINESS

B72/09 Addition

Address: 234 Via Linda

Applicant: Jonathan Gladstone

Architect: SKA Architects

Project Description: First floor renovation and second floor addition to existing one-story Bermuda style home

This project was approved at the September meeting with the proviso to bring the landscaping plan back for review. The project was deferred to the November meeting at the architect's request, and was similarly deferred to the December 18, 2009. January 27, 2010, and February 24, 2010 meetings.

Call for disclosure of ex parte communications: Mr. Feldkamp made an ex parte declaration.

Architect Pat Segraves introduced Landscape Architect Steven Dauber to present the landscape/hardscape for this project. Mr. Dauber stated that additional landscaping has been added across the back; that 288 sq. ft. of existing hardscape has been removed; that 3 Alexander Palm triples will be added to the front; and, described the other landscape material to be used. Mrs. Vanneck requested that more be done to soften the impact of the second story from the street, but Mr. Dauber stated there is no room for more in the front planting bed.

MOTION BY MR. ZUKOV FOR APPROVAL AS PRESENTED.

MOTION SECONDED BY MR. STRAWBRIDGE.

MOTION CARRIED UNANIMOUSLY.

B81/09 New Residence, Landscape & Hardscape

Address: 264 Country Club Road

Applicant: JDM Investments, LLC

Architect: Rustem Kupi Architect

Project Description: Construct a new two-story single-family residence with two-car garage, pool and pool area trellis structures, including hardscape and landscape.

This project was deferred from the October meeting to the November meeting for restudy, and was deferred from the November meeting to the December meeting at the request of the property owner. At the December meeting, the project was deferred to the January

meeting at the request of the property owner. At the January meeting, the commission deferred the project for re-study.

Call for disclosure of ex parte communication: None declared

Jonathan Moss, property owner, stated that he and his architect are addressing the comments made at last month's meeting, but are not ready yet to make a presentation. As such, he requested deferral to the March meeting.

**MOTION BY MR. SMITH FOR DEFERRAL TO THE MARCH MEETING.
MOTION SECONDED BY MRS. VANNECK.
MOTION CARRIED UNANIMOUSLY.**

B91/09 Addition

Address: 615 Crest Road

Applicant: Richard Richman

Architect: Bridges, Marsh & Associates

Project Description: Addition of new second story over existing eastern garage wing, in same style as existing structure

Please note that at the December meeting, this project was deferred to the January 27, 2010 meeting at the request of the attorney, Maura Ziska. At the January meeting, after review, the commission deferred the project to the February meeting.

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

Architect Mark Marsh revisited the design which was presented last month, and then contrasted it with the revised design presented today. Originally, a 1,066 sq. ft. addition had been presented, while today's presentation requests approval of a 330 sq. ft. addition over the existing staff day room. The elevation is impacted by moving the facade out by 14 feet. The garage mass is left as it exists.

Mr. Lindgren stated that last month there were three letters of objection to the previous design scheme. Today, he read an e-mail of support for the revised design, as written by neighbor Patrick Henry.

Mr. Smith noted that one of the plan sheets shows a new one story building which was not presented by Mr. Marsh. Mr. Marsh responded that the owner may seek approval of that building in the future, but it is not part of today's request. Mr. Smith requested that Mr. Marsh make a comprehensive presentation, rather than piecemeal requests.

Some commission commentary: This ruins the house; a hip roof would make it better; the addition disturbs the symmetry of the house; change the south facing window because it is too heavy...remove the balcony; too much mass; or, (referring to the original design) perhaps drop the height of the garage so the garage with a second story would be truly subservient to the house.

MOTION BY MR. ZUKOV TO APPROVE THE PROJECT WITH THE CHANGE TO A HIP ROOF AND THE REMOVAL OF THE BALCONY ON THE SOUTH FACING WINDOW, AND TO MATCH THAT WINDOW TO THE OTHER ONE IN THE SAME ROOM.

MOTION DIED FOR LACK OF A SECOND.

MOTION BY MR. STAWBRIDGE FOR DEFERRAL TO THE MARCH MEETING, WITH THE UNDERSTANDING THAT THE ARCHITECT SHOULD STUDY A HIP ROOF AND CHANGES TO THE SOUTH FACING WINDOW, AND TRY TO LOWER THE TIE BEAM.

MOTION SECONDED BY MRS. VANNECK.

MOTION CARRIED 5-2, WITH MR. FELDKAMP AND MR. ZUKOV OPPOSING.

B2/10 Addition and Demolition

Address: 1342 North Lake Way

Applicant: Joseph Sambuco

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

Project Description: Demolition of existing one-story library and loggia; new two-story addition at same location; enclosure of existing second floor balcony; new one-story awning; and, replacement of existing railings and other architectural features

Call for disclosure of ex parte communication

Please note that at the January meeting, there was a motion for approval of the front facade as presented, to include replacement of all cast stone balustrade with metal Chippendale railings, skim-coat the existing cast stone columns with plaster and paint them white, replace the entry door assembly, and add shutters to flank the French doors and the garage window. There was also a second motion for deferral of the west facade. **PLEASE NOTE THAT THE ARCHITECT HAS REQUESTED DEFERRAL TO THE MARCH MEETING.**

MOTION BY MR. SMITH FOR DEFERRAL TO THE MARCH MEETING.

MOTION SECONDED BY MRS. VANNECK.

MOTION CARRIED UNANIMOUSLY.

B. **MAJOR PROJECTS - NEW BUSINESS:**

B4/10 Demolition and New Construction

Address: 212 Caribbean Road

Applicant: Doug Buck and Bobbie Lindsay

Architect: SKA Architects/Patrick W. Segraves

Project Description: Demolition of existing one-story structure. Guest house, pool, and rear landscaping to remain. Construction of new two-story island style home to be approximately 5,300 square feet.

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

Architect Pat Segraves provided a brief history of the existing home and made a request for

demolition of the house. It should be noted that the existing guest house and pool, along with specific existing landscaping, as stated, will remain.

MOTION BY MR. SMITH FOR APPROVAL OF DEMOLITION OF THE EXISTING STRUCTURE, WITH THE TYPICAL REQUIREMENT FOR SODDING AND IRRIGATION.

**MOTION SECONDED BY MRS. VANNECK.
MOTION CARRIED UNANIMOUSLY.**

Mr. Segraves stated that the new house will have 4,500 square feet on an 18,000 square foot lot. It is a two-story home with single story wings and a three-car side-loaded garage. He referred to it as an Island style home. Landscape Architect Steve Dauber provided a preliminary landscape plan. Existing large trees will be retained and most will be kept in the same location. New landscape material will fill in and freshen the existing landscape.

Mrs. Vanneck expressed concern over the Alexander Palms in the front, and requested that Mr. Dauber "soften it and make it more natural". Mr. Dauber will abide by that request.

Mr. Lindgren noted that he had spoken with a few of the neighbors; that they did not voice opposition to the project; and, that one of them was concerned with drainage issues. After review of the plans, Mr. Lindgren assured the neighbor that the drainage was properly addressed and should not present a problem. There was no one in the audience who wished to speak relative to this project.

The home will be Tuscan yellow with blue shutters, with a terra cotta concrete tile roof and windows/balcony railing in bronze and/or dark wood stain.

Some commission member comments: Balcony loggia in back overly heavy; too many styles; windows jammed up against the eaves; "not too studied, not too perfect...a nice little North end house."

**MOTION BY MR. ZUKOV FOR APPROVAL AS PRESENTED.
MOTION SECONDED BY MR. SMITH.
MOTION CARRIED 6-1, WITH MRS. VANNECK OPPOSED.**

B5/10 Landscape

Address: 770 South County Road

Applicant: 770 South County Road L.P.

Architect: John Lang, Lang Design Group

Project Description: Revisions to previously approved landscape plans

Call for disclosure of ex parte communication: Mrs. Vanneck made an ex parte declaration.

John Lang, Landscape Architect, presented these changes to a previously approved landscape/hardscape plan. Mini-gardens have been added off each guest room and the open loggia; a tree has been placed in the main motor court; a fountain has been added in the front; and, some hardscape has been eliminated in the front motor court as well.

**MOTION BY MR. ZUKOV FOR APPROVAL AS PRESENTED.
MOTION SECONDED BY MRS. VANNECK.
MOTION CARRIED UNANIMOUSLY.**

B6/10 Addition

Address: 1100 North Ocean Boulevard

Applicant: 1100 North Ocean Boulevard Trust

Architect: The Lawrence Group Architects

Project Description: A two-story addition with garage space in the basement on the south side of the main house in similar architectural elements as the existing main house.

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

Architect Eugene Lawrence referred to the project which was denied at the December 2009 meeting, and stated that today's presentation is a new design which attempts to address the objections to the original denied design. He reviewed the site, the neighborhood, the existing landscape conditions, and various views of the existing house and property. The proposed addition has now been moved to the north, and to the west as far as possible, and is now sited almost 28 feet from the property line to the south. Other changes include: the whole mass of the addition has been dropped by 3 feet; the chimney has been made smaller (Note: later testimony was given that the chimney would be deleted); some fenestration changes; and, a balcony has been eliminated. Details will match the main house. Jeff Blakely, Landscape Architect, reviewed the landscape plan and testified that fifteen additional cocoanut palms have been added to buffer this property from the Castle property to the south. In addition, a second Seagrape hedge line is planned to create a wind buffer. Mrs. Vanneck suggested that overhead sprinklers be used to inhibit plants from "browning out". Bougainvillea or flame vine will espalier across the face of the garage.

Attorney Paul Rampell, Attorney James Greene, Landscape Architect Morgan Wheelock, and Architect Tom Kirchhoff were present on behalf of the Castles (neighbors to the south). Mr. Rampell indicated that he would also make comments on behalf of two other neighbors, Gina Borman, 1086 North Ocean Boulevard, and Rena and B. William Holman, 1090 North Ocean Boulevard.

Throughout his presentation, Mr. Rampell introduced several documents into the record: An original and a copy of a court transcript of the December 18, 2009 ARCOM hearing of Item B84/09 for 1100 North Ocean Boulevard; Affidavits from Gina M. Borman, 1086 North Ocean Boulevard, Rena Holman, 1090 North Ocean Boulevard, and B. William Holman, 1090 North Ocean Boulevard; Affidavits from former members of the Architectural Commission who served on the commission during 1996 when the original approval for this home was granted, as follows: Laurel Baker, Sally Gingras, Bruce Helander, Ethel Kinsella, Marvin Rosenberg, John H. Schuler, and Floyd Wideman; and, copies of approved ARCOM plans for 1100 North Ocean Boulevard, as approved June 26, 1996.

Mr. Rampell testified that his clients are opposed to this project for all of the same reasons they were opposed to the project which was denied at the meeting held on December 18, 2009. Architect Tom Kirchhoff offered a presentation, expressing his opinion that this submittal is not significantly different than the project denied in December. Mr. Rampell testified that his clients, the Castles, owned their property when ARCOM approved the original plans for the house built by the Smiths in 1996. The Castles maintain that it was understood, at that time, that the area where the proposed addition is sited was to be reserved for a tennis court or open space. He presented the aforementioned affidavits from neighbors and former ARCOM members at this juncture. It was Mr. Rampell's position

that the issue had been decided in 1996; that this was further ratified in December 2009, and should be respected; that owners have rights, but neighbors also have rights; and, he requested that ARCOM deny the current application.

Attorney Greg Young offered comments in rebuttal. He maintained that ARCOM must balance the rights of this property owner/applicant with those of neighbors; that a removal of property rights (for this owner), without compensation, is not sanctioned by law; that this is a new and different application; that there were no deed restrictions placed on the 1996 approval and there is nothing in the Town records imposing those restrictions, and, that the December 2009 denial of a different project does not prejudice this application (referring to Pages 72/73 of the aforementioned court reporter's transcript).

Attorney Randolph was asked to comment regarding the affidavits which were submitted. He provided his legal opinion regarding the affidavits and other issues. In addition to other comments, Mr. Randolph stated that the law is clear that a person does not have a right to views across another person's property, and there is no Declaration of Use agreement in place relative to this property as a result of the 1996 ARCOM approval.

Attorney James Greene testified that there is no transcript of the 1996 hearing, and that is the reason for the affidavits. He also contended that a denial of this project would not deny this property owner all beneficial use of his property, and therefore, could not be considered a "taking".

There was some discussion relative to whether a DEP approval was in place relative to this project. Mr. Young testified that DEP is currently reviewing the project.

Mr. Randolph, in response to a question, stated that there is no language in the Architectural Commission ordinance which would prevent a project from returning to ARCOM within the same year, but it has been the practice that such projects would not return unless they were substantially different.

Commission members made comments as to whether the affidavits from former ARCOM members would affect any decisions made today; as to whether the project was substantially different and should be heard; and as to Mr. Randolph's statement that a neighbor does not have a guarantee of views across a neighbor's property. After these comments, members offered comments relative to the architecture. Some of these follow: the addition should be cohesively attached to the structure; pull the addition back further to the north and west to respect the arc that the loggia has already established; make the rooflines and oceanside fenestration match; make it look like an addition to the house, not a separate structure; make it subservient to the main house; clean up the fenestration; and, the west side does not relate to the main house.

MOTION BY MR. ZUKOV FOR DEFERRAL TO THE MARCH MEETING.
MOTION SECONDED BY MR. STRAWBRIDGE.
MOTION CARRIED UNANIMOUSLY.

Let the record show that there was a short recess from 11:13 a.m. to 11:20 a.m.

B7/10 Landscape/Hardscape

Address: 2315 South Ocean Boulevard

Applicant: Donna Ward

Architect: Parker Yannette Design Group

Project Description: Final landscape, hardscape, and landscape lighting

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

Steve Parker of Parker Yannette Design Group Inc., Landscape Architects, presented this request along with Daniel Cahan of Smith and Moore Architects. Attorney Maura Ziska, and Walt Jenkins, landscape lighting designer. Mr. Parker stated that the preliminary landscape approval was given in October of 2008, and today, final landscape approval is requested. He provided the statistics relative to open space, total perimeter landscape, and front yard landscape open space for this project which indicate that the proposed plan clearly exceeds established minimum requirements. He reviewed the landscape plan including relocating Sabal Palms, removing poor quality existing plant material, planting two layers of ficus hedge, having Coconut Palms and Seagrapes along the north property line and at several other locations, and other plant materials as shown on the plans. Walt Jenkins reviewed landscape lighting, indicating that site lighting (any uplight) will have a maximum of 50 watts/fixture, and no site lighting will affect any of the neighbors.

Mr. Feldkamp noted that the owner of this property has placed several trees (later identified as 10 trees) on the property of the neighbor to the north, the Harbour House, but that action is not under the purview of the Architectural Commission.

Mr. Lindgren read a letter from Morgan Wheelock Inc. into the record which presented various objections to the proposed plan and to the trees which Ms. Ward planted on her neighbor's property.

Attorney Ray Royce, representing the Harbor House, stated his client's objection to the proposed project and also to the trees which are already in place (planted by Ms. Ward on the neighbor's property.) The Harbour House wants the trees removed and the area restored to grass. Attorney Maura Ziska objected to any discussion of the trees which were planted by Ms. Ward on the Harbour House property, and asked that comments only be made relative to the landscape plan being presented for the Donna Ward property. Attorney Royce raised objections to plant material on the Ward property which might present a liability to the Harbour House due to falling coconuts and palm fronds. He questioned how Ms. Ward intends to have maintenance done on her plant material without impacting the Harbour House property, and expressed concern on behalf of his client regarding stormwater run off. He entered correspondence into the record: A letter from Morgan Wheelock Inc. dated February 22, 2010, a letter from Donna Ward dated July 21, 2009, and a letter from Alvin Milberg, President, Harbour House dated January 8, 2010. He introduced Don Skowron of Morgan Wheelock Incorporated to provide testimony relative to the project from the perspective of a landscape professional. Regarding this proposal, he discussed topics of shade line, plant success/failure, plant selection, and plant maintenance, with his remarks in opposition to the proposal as designed.

Mrs. Vanneck commented that plants will survive in this location if they are properly maintained and accustomed to their location. She recommended that along that north perimeter, plants should be staggered in height; the soil must be treated; the present concrete footer must be sealed; and, plants should be sprinkled from above. Later in the

meeting, Mrs. Vanneck recommended against the Canary Island Date Palms due to salt tolerance, but Mr. Parker responded that they believe these trees will survive and want to use them. It was also suggested that a mixed variety of clusia be used.

Paul Castro, Zoning Administrator, testified, in response to a question, that the Sea Lord Hotel, a four story building with a basement, was formerly located on the Donna Ward property.

Mr. Randolph gave his opinion relative to liability concerns due to falling cocoanuts and palm fronds in response to a question from Mr. Feldkamp.

The commission was clear that the owner must be responsible to replace whatever plant material does not survive.

MOTION BY MR. VILA TO APPROVE THE DESIGN OF THE PROJECT WITH THE CONDITION THAT THE PLANT MATERIAL AT THE NORTH PROPERTY LINE BE REVIEWED IN AN EFFORT TO SATISFY THE NEIGHBOR'S CONCERNS REGARDING FLYING PLANT MATERIAL, AND APPROVAL TO REPLACE THE SEAGRAPES WITH A MIXED VARIETY OF CLUSIA.

**MOTION SECONDED BY MRS. VANNECK.
MOTION CARRIED UNANIMOUSLY.**

Mr. Feldkamp chastised the Harbour House for not planting any landscape buffer of their own for the many years prior to this, going back to the days when the Sea Lord Hotel was still in place.

B8/10 New single family dwelling

Address: 1695 North Ocean Way

Applicant: Andrew Gordon/Christopher Browne

Architect: Graham Gerald

Project Description: This is a request for a second 1 year extension for this project involving a new two-story single family house, retaining walls, modern design

Call for disclosure of ex parte communication: None declared

Attorney Paul Rampell stated that the reason for the request for time extension is that one of the owners is deceased and the other is currently ill.

**MOTION BY MR. ZUKOV FOR A ONE YEAR TIME EXTENSION.
MOTION SECONDED BY MR. STRAWBRIDGE.
MOTION CARRIED UNANIMOUSLY.**

B9/10 Time Extension

Address: 516 South Ocean Boulevard

Applicant: Mr. & Mrs. Robert Feldman

Architect: MP Design & Architecture, Inc.

Project Description: 12 month time extension of previously approved new two-story residence, final landscape and hardscape

Call for disclosure of ex parte communication: None declared

Caroline Forrest, representing M Perry Design and the property owner, requested a one year time extension for this project. The client is looking at bids for the project, and is deciding how they would like to proceed. Ms. Forrest indicated that the property is being maintained.

MOTION BY MR. ZUKOV FOR APPROVAL OF A ONE YEAR TIME EXTENSION.

MOTION SECONDED BY MR. STRAWBRIDGE.

MOTION CARRIED UNANIMOUSLY.

C. **MINOR PROJECTS - OLD BUSINESS**

D. **MINOR PROJECTS - NEW BUSINESS**

VIII. COMMUNICATIONS FROM CITIZENS (3 MINUTE LIMIT PLEASE)

IX. COMMENTS OF THE ARCHITECTURAL COMMISSION AND DIRECTOR OF PLANNING, ZONING AND BUILDING DEPARTMENT:(12:12:17 a.m.)

Mr. Page brought up the issue of persons who are qualified to make presentations before ARCOM and the Landmarks Preservation Commission. After some discussion, the commission approved of the new language.

Mr. Page announced that the Town Council has determined that members of the boards and commissions will be required to take an oath of office as they commence service. This will take place next month after the upcoming ARCOM appointments.

Mr. Page announced that this is Mr. Feldkamp's last meeting, and recognized him for his excellent service to the Architectural Commission and to the Town.

Mr. Lindgren brought up the subject of whether a project can return to the commission within the same year, and suggested that the code be amended to clarify the issue. This will be placed on next month's agenda for discussion.

X. ADJOURNMENT:(12:21:38 a.m.)

MOTION BY MRS. VANNECK TO ADJOURN THE MEETING AT 12:29 P.M.

MOTION SECONDED BY MR. VILA.

MOTION CARRIED UNANIMOUSLY.

The next meeting of the Architectural Commission will be on Wednesday, March 24, 2010 at 9:00 a.m. in the Emergency Operations Center, 3rd floor, 355 South County Road, Palm Beach, Florida.

Respectfully submitted,

William P. Feldkamp, Chairman
ARCHITECTURAL COMMISSION

cmd

TOWN OF PALM BEACH

Town Council Meeting on: March 9, 2010

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 26-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Adding Newly Designated Historic or Specimen Trees from Properties Located within the Town of Palm Beach; Providing for the Recording of Said Designations; and Providing that a Copy of this Resolution be Recorded in the Public Records of Palm Beach County, Florida.

Presenter

H. Paul Brazil, Director of Public Works

Supporting Documents

- Memorandum dated February 25, 2010, from H. Paul Brazil, Director of Public Works
- Resolution No. 26-10
- Letter dated January 28, 2010, to Ervin Duggan, Director, Society of the Four Arts
- Letter from Landscape Consultant

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 9, 2010

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: H. Paul Brazil, Director of Public Works

Re: Historic/Specimen Tree Designation - Four Arts Garden
Resolution No. 26-10

Date: February 25, 2010

STAFF RECOMMENDATION

Staff recommends that Town Council approve Resolution No. 26-10 to authorize a change in historic or specimen tree designations for the subject property.

GENERAL INFORMATION

The Town's horticultural consultant has completed his annual inspection of historic and specimen trees. He has submitted his findings to the Town as required by Section 126-59 of the Town's Code of Ordinances. One of his recommendations (attached) was to add a Shillings Dwarf Holly (*Ilex Vomitoria*) to the list of historic/specimen trees. The Shillings Holly, located at the Four Arts Garden, is at least 40 years old and is in good condition. The required notification letter was sent to the owner, per the ordinance requirement. This new designation on the noted property will be recorded in the official records of Palm Beach County, if approved by Town Council.

TOWN ATTORNEY REVIEW

The attached resolution is in the standard format which has previously been approved by the Town Attorney.

HPB:mrs

Attachments

cc: John Page, Director of Planning, Zoning & Building Department
Eric B. Brown, Assistant Director of Public Works/Operations
Joseph J. Ugi, Facilities Maintenance Division Manager
Rob Walton, Chief Code Compliance Officer
Cindy Hoyt, President, Garden Club of Palm Beach

RESOLUTION NO. 26-10

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, ADDING NEWLY DESIGNATED HISTORIC OR SPECIMEN TREES FROM PROPERTIES LOCATED WITHIN THE TOWN OF PALM BEACH; PROVIDING FOR THE RECORDING OF SAID DESIGNATIONS; AND PROVIDING THAT A COPY OF THIS RESOLUTION BE RECORDED IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

* * * * *

WHEREAS, pursuant to Section 126-57 and Section 126-59 of the Town Code of Ordinances relating to preservation of historic and specimen trees, procedures are outlined for the designation, de-designation and annual inspection of certain trees as historic or specimen trees; and

WHEREAS, the Town Council of the Town of Palm Beach has undertaken the procedures required to de-designate and designate certain trees located on properties within the Town as historic or specimen trees; and

WHEREAS, the Town Council of the Town of Palm Beach desires to record said de-designations and designations in the public records of Palm Beach County, Florida, pursuant to the terms of said ordinance.

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

Section 1. Trees designated as historic or specimen shall be ADDED to the following described properties:

<u>PCN/Legal Name</u>	<u>Location</u>	<u>Count</u>	<u>Common Name</u>	<u>Botanical Name</u>
<u>50-43-43-23-05-021-001</u>	Four Arts Gardens	1	Shillings Holly	Ilex Vomitoria
ROYAL PARK ADD LT 1 & LAND LYG W OF LT 1 (LESS E 43 FT) LT 2 & LAND LYG W OF LT 2 (LESS LAKE DR)				

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on this 9th day of March, 2010.

Jack McDonald, Mayor

David A. Rosow, Town Council President

Gail Coniglio, Council President Pro Tem

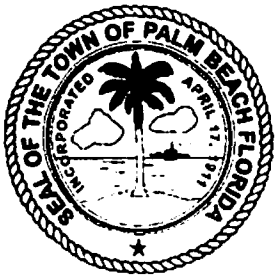
William J. Diamond, Town Council Member

ATTEST:

Richard M. Kleid, Town Council Member

Joanna Cunningham, Town Clerk

Robert N. Wildrick, Town Council Member



TOWN OF PALM BEACH

Office of the Town Manager

January 28, 2010

Ervin Duggan, Director
Society of the Four Arts Garden
2 Four Arts Plaza
Palm Beach, FL 33480

Re: Historic/Specimen Tree Designation - Shillings Dwarf Holly (*Ilex Vomitoria*)

Dear Mr. Duggan:

The Town is pleased to inform you that the Shillings Dwarf Holly, located on the property of the Four Arts Garden, has been selected for designation as an historic/specimen tree. This plant is a replacement for the historic Red Sandalwood tree which was removed from the Chinese Garden via Resolution 19-06 due to the fact that it had contracted *Botryosphaeria* canker and deteriorated to the point where it was a public hazard. The Shillings Holly was selected based on the fact that it is over 40 years old and in good health (see attached memo from Robert Haehle).

Per the Town's Code of Ordinance No. 126-57, the necessary resolutions for designating the tree will be on the Town Council Agenda for the March 9, 2010, meeting. You are invited to attend this Town Council meeting to provide any comments or opinions pertaining to this designation.

If the resolution passes, it will be recorded in the public records of Palm Beach County. This recording ensures that purchasers of property on which historic/specimen trees are located are made aware of this designation, so that this significant heritage will be preserved.

If you have any questions, please do not hesitate to contact me or the Public Works staff at 838-5440 prior to the date of the meeting.

Sincerely,

Peter B. Elwell
Town Manager

PBE:JJU:mks

Attachment

cc: H. Paul Brazil, Director of Public Works
Eric B. Brown, Assistant Director of Public Works
Joseph J. Ugi, Facilities Maintenance Manager
Cynthia Hoyt, Garden Club President

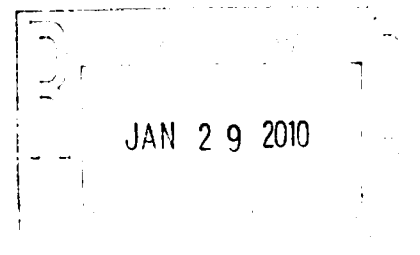
Post Office Box 2029 • 360 South County Road • Palm Beach, Florida 33480

Telephone: (561) 838-5440 • Fax: (561) 838-5441

E-mail: townmanager@townofpalmbeach.com • Website: www.townofpalmbeach.com



RECYCLED PAPER



12/07/08

Joe Ugi/Ed Armstrong
Town of Palm Beach Public Works
951 Old Okeechobee Road
West Palm Beach, FL 33401

Four Arts Garden Shillings Holly Addition to the Historic/Specimen Tree List

I spoke with the gardener and co-chair of the Four Arts Garden on seeking a replacement for the historic Sandalwood tree removed from the Chinese Garden. I also spoke with Ann Blades about her thoughts on a replacement for the tree. Everyone agreed that the specimen Shillings Holly would make a good substitute for the sandalwood tree. The Shillings Holly, *Ilex Vomitoria* (Shillings) is at least 40 years old and is in good condition. The small tree is located in the same place as the Sandalwood tree was. This small tree adds an Oriental touch to the garden but will not grow large enough to shade out the water lilies in the pond. The tree is neat and will not produce all the litter that the Sandalwood tree created. The Sandalwood shaded out the water lilies in the garden and outgrew its location. I would recommend the Shillings holly as a fine addition to the historic/specimen list.

Robert Haehle
Landscape Consultant
4707 NW 49th Drive
Tamarac, FL 33319-3644

TOWN OF PALM BEACH

Town Council Meeting on: March 9, 2010

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 29-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Contract to D. B. Ecological Services, Inc. for Sea Turtle Monitoring for the Town of Palm Beach, Sealed Bid Number 2007-21.

Presenter

H. Paul Brazil, Director of Public Works

Supporting Documents

- Memorandum dated February 24, 2010, from H. Paul Brazil, Director of Public Works.
- Resolution No. 29-10
- Copy of Resolution 3-08
- Bid Tabulation Forms

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 9, 2010

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: H. Paul Brazil, Director of Public Works

Re: Award an Extension of the Sea Turtle Monitoring Contract
Resolution No. 29-10

Date: February 24, 2010

STAFF RECOMMENDATION

Town staff recommends that the Town Council approve Resolution Number 29-10, awarding an extension of the contract to D.B. Ecological Services, Inc. to monitor sea turtles, as required by the Florida Department of Environmental Protection (FDEP), along the Town's shoreline.

GENERAL INFORMATION

The Town of Palm Beach by agreement or by FDEP permit conditions is required to monitor sea turtle nesting at the following locations.

1. Reach 1, due to USACE inlet channel maintenance sand placement on the dry beach.
2. North Ocean Boulevard seawall revetment including 200 yards north and south of the revetment.
3. Mid-town Beach (Reaches 3 and 4) lying approximately between Via Los Incas and Banyan Road.
4. Phipps Ocean Park (Reach 7 restoration, Reach 8 dune restoration) between Sloan's Curve and the south Town limits, excluding the Lake Worth Municipal Beach.

Sealed Bid No. 2007-21 had only one bidder, D.B. Ecological Services, Inc. This firm has provided sea turtle monitoring over the past four years for the Town. They have consistently provided timely and complete monitoring and permit required reports, and have not increased the price for these services from last year. Also, this is the only firm that holds a license from FDEP to provide these services for our beaches.

FUNDING/FISCAL IMPACT

Funding for the Turtle Monitoring is contained within the FY 2010 Budget.

TOWN ATTORNEY REVIEW

The agreement was reviewed by the Town Attorney in 2008 and the current resolution has also been reviewed by the Town Attorney and approved for legal form and sufficiency.

HPB:mrs

cc: Jane Struder, Finance Director
James M. Bowser, P.E., Town Engineer
Lynda Venne, Purchasing Director
Rob Weber, Coastal Coordinator

RESOLUTION NO. 29-10

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF
PALM BEACH, PALM BEACH COUNTY, FLORIDA,
AWARDING A CONTRACT TO D. B. ECOLOGICAL
SERVICES, INC. FOR SEA TURTLE MONITORING FOR THE
TOWN OF PALM BEACH, SEALED BID NUMBER 2007-21.

BE IT RESOLVED BY THE TOWN OF COUNCIL of the Town of Palm Beach, Palm
Beach County, Florida as follows:

Section 1. The Town of Palm Beach Sealed Bid No. 2007-21 for Sea Turtle Monitoring is
hereby awarded to D.B. Ecological Services, Inc. for the bid amount of \$133,480.

Section 2. The Town Manager is hereby authorized and directed to execute a contract on
behalf of the Town of Palm Beach for the Sea Turtle Monitoring with D.B. Ecological Services,
Inc.

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 completion of the Sea Turtle Monitoring.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of
Palm Beach assembled this 9th day of March 2010.

Jack McDonald, Mayor

David A. Rosow, Town Council President

Gail Coniglio, Council President Pro Tem

William J. Diamond, Town Council Member

ATTEST:

Richard M. Kleid, Town Council Member

Joanna Cunningham, Town Clerk

Robert N. Wildrick, Town Council Member

File ^{DW}

RESOLUTION NO. 3-08

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF
PALM BEACH, PALM BEACH COUNTY, FLORIDA,
AWARDING A CONTRACT TO D.B. ECOLOGICAL SERVICES,
INC. FOR SEA TURTLE MONITORING FOR THE TOWN OF
PALM BEACH, SEALED BID NUMBER 2007-21.**

**BE IT RESOLVED BY THE TOWN OF COUNCIL of the Town of Palm Beach, Palm
Beach County, Florida as follows:**

**Section 1. The Town of Palm Beach Sealed Bid No. 2007-21 for Sea Turtle Monitoring is
hereby awarded to D.B. Ecological Services, Inc. for the bid amount of \$133,480.**

**Section 2. Additional funds in the amount of \$44,600 from the FY 2008 General Fund
Contingency are hereby allocated to fund this contract.**

**Section 3. The Town Manager is hereby authorized and directed to execute a contract on
behalf of the Town of Palm Beach for the Sea Turtle Monitoring with D.B. Ecological Services,
Inc.**

**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 the Sea Turtle Monitoring.**

**PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the
Town of Palm Beach on this 8th day of January 2008.**

Jack McDonald, Mayor

Richard M. Kleid, Town Council President

Dennis P. Coleman, President Pro Tem

William J. Brooks, Town Council Member

Gail Coniglio, Town Council Member

Susan Markin, Town Council Member

ATTEST:

Susan A. Biehler, Town Clerk

BID TABULATION

TURTLE MONITORING BID NO. 2007-21

Vendor:		D.B. Ecological Services					
Address:		1012 SW 7th Street					
		Boca Raton, FL 33488					
Telephones:		561-378-5502					
Fax:		561-393-3854					
Item	Description	Qty	Unit	Unit Price	Total	Unit Price	Total
1	REACH 6						
	A. Sea turtle nesting activity in the project areas	8	MO	2,725.00 \$	21,800.00		
	B. Lighting sources visible from the beach berm elevation	8	MO	300.00 \$	2,400.00		
	C. Escarpment formations	8	MO	225.00 \$	1,800.00		
	D. Nest marking for the purpose of nest avoidance by beach clearing equipment	8	MO	250.00 \$	2,000.00		
2	REACH 3 & 4 (Bridgeway)						
	A. Sea turtle nesting activity in the project areas	8	MO	2,900.00 \$	23,200.00		
	B. Lighting sources visible from the beach berm elevation	8	MO	300.00 \$	2,400.00		
	C. Escarpment formations	8	MO	225.00 \$	1,800.00		
	D. Nest marking for the purpose of nest avoidance by beach clearing equipment	8	MO	250.00 \$	2,000.00		
3	REACH 7 (Phillips Park Area)						
	A. Sea turtle nesting activity in the project areas	8	MO	2,872.00 \$	22,976.00		

BID TABULATION

Item	Description	Qty	Unit	Unit Price	Total	Unit Price	Total	Unit Price	Total
4	B. Lighting sources visible from the beach berm elevation	8	MO	300.00 \$	2,400.00		\$ -		\$ -
	C. Escarpment formations	8	MO	225.00 \$	1,800.00		\$ -		\$ -
	D. Nest marking for the purpose of nest evidence by beach cleaning equipment	8	MO	250.00 \$	2,000.00		\$ -		\$ -
	North Ocean Boulevard Revetment								
5	A. Sea turtle nesting activity in the project areas	8	MO	2,075.00 \$	16,600.00		\$ -		\$ -
	REACH 1 (Sand Transfer Plant/ Lake Worth Inlet)								
	A. Sea turtle nesting activity in the project areas	8	MO	3,253.00 \$	28,104.00		\$ -		\$ -
	B. Lighting sources visible from the beach berm elevation	8	MO	300.00 \$	2,400.00		\$ -		\$ -
	C. Escarpment formations	8	MO	225.00 \$	1,800.00		\$ -		\$ -
Total Bid				\$	133,480.00 \$		\$ -		\$ -

Bid Opened on December 19, 2007 at 2:00 PM

Opened by: Lynnda Vigne

Witnessed by: Jade Pedraza

TOWN OF PALM BEACH

Town Council Meeting on: March 9, 2010

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 30-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Purchase of Three (3) Police Patrol Vehicles as Previously Considered and Approved by the Town Council during the FY 2010 Budget Process and Included in the Town's Equipment Replacement Program.

Presenter

Kirk Blouin, Chief of Police

Supporting Documents

- Memorandum dated February 22, 2010, from Kirk W. Blouin, Chief of Police
- Resolution No. 30-10
- Florida Sheriffs Association Bid Award Announcement (09-17-0908)

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 9, 2010

To: Mayor & Town Council

Via: Peter B. Elwell, Town Manager

From: Kirk W. Blouin, Chief of Police

Re: Purchase Police Patrol Vehicles
Resolution No. 30-10

Date: February 22, 2010

STAFF RECOMMENDATIONS

It is recommended that the Mayor and Town Council approve the purchase of three (3) patrol vehicles, as previously considered and approved by the Town Council during the FY10 budget process and as described more explicitly below.

GENERAL INFORMATION

The Police Department is scheduled to purchase three (3) Crown Victoria patrol pursuit vehicles as part of the FY10 equipment replacement program. The patrol vehicles will replace three (3) 2007 Crown Victorias that will have over 100,000 miles at replacement time.

FUNDING/FISCAL IMPACT

During the FY10 budget process \$81,000 was allocated in the Equipment Replacement Fund for the purchase of three (3) patrol vehicles. These vehicles are being purchased through the Florida Sheriffs Association State Bid Award Announcement #09-17-0908. The total purchase price through the state contract is \$81,618.03 (\$27,206.01 each) which is an increase of \$1,172.01 over FY 09 per vehicle. Requisition #0005510 to Garber Ford Mercury, Inc. is pending approval.

TOWN ATTORNEY REVIEW

Resolution No. 30-10 is in a form that has previously been approved by the Town Attorney.

Attachments

KWB/lsg

RESOLUTION NO. 30-10

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF
PALM BEACH, PALM BEACH COUNTY, FLORIDA,
AUTHORIZING THE PURCHASE OF THREE (3) POLICE
PATROL VEHICLES AS PREVIOUSLY CONSIDERED AND
APPROVED BY THE TOWN COUNCIL DURING THE FY 2010
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 three (3) police patrol vehicles via the Florida Sheriffs Association Bid Award Announcement (09-17-0908) in the amount of \$81,618.03.

A copy of the bid announcement 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 9TH DAY OF MARCH, 2010.**

Jack McDonald, Mayor

David A. Rosow, Town Council President

Gail Coniglio, Town Council President Pro-Tem

William J. Diamond, Town Council Member

ATTEST:

Richard M. Kleid, Town Council Member

Joanna Cunningham, Town Clerk

Robert N. Wildrick, Town Council Member



**FLORIDA SHERIFFS ASSOCIATION,
FLORIDA ASSOCIATION OF COUNTIES &
FLORIDA FIRE CHIEFS' ASSOCIATION**

**FULL SIZE PURSUIT VEHICLES - RWD (POLICE PACKAGE)
SPECIFICATION #1**

~~2010 Ford Crown Victoria (P7B/720A)~~

The Ford Crown Victoria (P7B/720A) purchased through this contract comes with all the standard equipment as specified by the manufacturer for this model and FSA's base vehicle specification(s) requirements which are included and made a part of this contract's vehicle base price as awarded by specification by zone.

ZONE:	Western	Northern	Central	Southern
BASE PRICE:	\$20,578.00	\$20,578.00	\$20,578.00	\$20,578.00

While the Florida Sheriff's Association, Florida Association of Counties and Florida Fire Chiefs' Association have attempted to identify and include those equipment items most often requested by participating agencies for full size vehicles, we realize equipment needs and preferences are going to vary from agency to agency. In an effort to incorporate flexibility into our program, we have created specific add/delete options which allow the purchaser to tailor the vehicle to their particular wants or needs.

The following equipment delete and add options and their related cost are provided here to assist you in approximating the total cost of the type vehicle(s) you wish to order through this program. Simply deduct the cost of any of the following equipment items you wish deleted from the base unit cost and/or add the cost of any equipment items you wish added to the base unit cost to determine the approximate cost of the type vehicle(s) you wish to order.

NOTE: An official listing of all add/delete options and their prices should be obtained from the appropriate dealer in your zone when preparing your order. Additional add/delete options other than those listed here may be available through the dealers, however, those listed here must be honored by the dealers in your zone at the stated prices.

VEHICLE:	Crown Victoria (P7B/720A)	Crown Victoria (P7B/720A)	Crown Victoria (P7B/720A)	Crown Victoria (P7B/720A)
DEALER:	Garber Ford Mercury, Inc.	Garber Ford Mercury, Inc.	Garber Ford Mercury, Inc.	Garber Ford Mercury, Inc.
ZONE:	Western	Northern	Central	Southern
BASE PRICE:	\$20,578.00	\$20,578.00	\$20,578.00	\$20,578.00

Order Code	Delete Options	All Zones
V6 ¹	V6 engine in lieu of V8 engine	NA ¹
VINYL ¹	Black vinyl floor covering	Std ¹
HN ¹	Cloth rear seat in lieu of vinyl	NC ¹
D96A ¹	Front door body side molding NO FRONT DOOR MOLDING IS STD FOR C/P, MOLDING INCL ON BASE SPEC, DELETE IS NO CHARGE. SPECIFY ON PURCHASE ORDER NO FT MOLDING ¹	Std ¹
DDL ¹	5" round dome lamp C/P STD EQUIPMENT. CAN BE REMOVED. INCLUDES PLASTIC COVER OVER HOLE ¹	Std ¹
MINISPAR ¹	Space saver spare tire in lieu of full size spare tire	NA ¹

Order Code	Add Options	All Zones
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Please refer to Part D - Emergency Vehicle Lighting Specifications for lightbar descriptions and the awarded dealer pricing.

45C ¹	120A Limited slip differential 655	155	\$125.00 ¹
177 ¹	Silicone hoses		\$320.00 ¹
PRIO ¹	Priority start/battery saver		\$156.00 ¹
68P ¹	Complete Police Prep Package SEE FLEET.FORD.COM FOR COMPLETE PACKAGE DETAILS ¹		\$2,075.00 ¹
65A ¹	Base Police Prep Package SEE FLEET.FORD.COM FOR COMPLETE PACKAGE DETAILS ¹		\$770.00 ¹
65U ¹	Police Prep Package - "Ready for the Road" SEE FLEET.FORD.COM FOR COMPLETE PACKAGE DETAILS ¹		\$4,120.00 ¹
65P ¹	Base Lighting Package SEE FLEET.FORD.COM FOR COMPLETE PACKAGE DETAILS ¹		\$1,955.00 ¹
65W ¹	Visibility Package SEE FLEET.FORD.COM FOR COMPLETE PACKAGE DETAILS ¹		\$3,090.00 ¹
60S ¹	Fire suppression system SEE FLEET.FORD.COM FOR COMPLETE PACKAGE DETAILS ¹		\$3,495.00 ¹
TREM ¹	Tremco anti-theft - foot activated, dealer installed		\$196.00 ¹
SFST ¹	SafeStop vehicle anti-theft - key activated or emergency lights activated, plug-&-play for most Ford and Chevy fleet vehicles, dealer installed in 20 minutes or less		\$196.00 ¹
MAG ¹	Rechargeable mag light		\$136.00 ¹
187 ¹	Roof wiring with hole INCL. LATERAL REINFORCEMENT ¹		\$195.00 ¹
189 ¹	Roof wiring without hole		\$85.00 ¹

VEHICLE:	Crown Victoria (P7B/720A)	Crown Victoria (P7B/720A)	Crown Victoria (P7B/720A)	Crown Victoria (P7B/720A)
DEALER:	Garber Ford Mercury, Inc.	Garber Ford Mercury, Inc.	Garber Ford Mercury, Inc.	Garber Ford Mercury, Inc.
ZONE:	Western	Northern	Central	Southern
BASE PRICE:	\$20,578.00	\$20,578.00	\$20,578.00	\$20,578.00

AFW ¹	Accessory feed wires for police equipment FULL LOOMED CUSTOM WIRE HARNESS WITH QUICK DISCONNECT ¹	\$2165 ¹	\$980.00 ¹
RPRSBS-CV03 ¹	Ready Buckle Prisoner Restraint Seat Belt System - Crown Vic		\$530.00 ¹
RPRSBS-DC03 ¹	Ready Buckle Prisoner Restraint Seat Belt System - Dodge Charger		NA ¹
611 ¹	Keplar trunk package HIDE DROP IN BOX W. FRONT KEPLAR. REDUCES RISK OF POLICE EQUIP PENETRATING THE BACK SEAT OR FUEL TANK IN HIGH SPEED REAR IMPACTS ¹		\$190.00 ¹
611 ¹	Ignition powered trunk button, factory installed IF IGNITION POWERED ¹		\$60.00 ¹
41A ¹	Comfort and convenience group PWR SEATS, CD, SPEED CONTROL ¹		\$760.00 ¹
750A ¹	Street appearance group INCL 64N, CHROME GRILL & REAR TRUNK APPLIQUES. INCLUDES 3.27 REAR AXLE. ¹		\$155.00 ¹
64N ¹	Full wheel covers STD WITH 750A ¹		\$15.00 ¹
N2 ¹	Nitrogen filled tires including spare tire		\$125.00 ¹
58Z ¹	AM/FM radio with single CD		\$185.00 ¹
77D ¹	Daytime running lights		\$50.00 ¹
DTNT ¹	Sunscreen privacy glass		\$276.00 ¹
PJ ¹	Cloth split bench - front INCL 41A COMFORT GROUP ¹		\$760.00 ¹
21A ¹	Driver seat only - 6 way power		\$380.00 ¹
128 ¹	Carpet (installed) INCL FRONT AND REAR MATS ¹		\$125.00 ¹
67R ¹	Rear door locks & handles inoperative		\$25.00 ¹
RLH ¹	Rear door locks & handles inoperative, dealer modification INCL HIDDEN MANUAL UNLOCK PLUNGER ¹		\$175.00 ¹
948 ¹	Rear windows inoperative REAR POWER WINDOW SWITCH DEACTIVATION ¹		\$25.00 ¹
525 ¹	Cruise control INCL WITH 41A CONVENIENCE GROUP ¹		\$225.00 ¹
53M ¹	Radio noise suppression 8 GROUND STRAPS. ENG TO DASH, HOOD TO BODY, DECKLID TO BODY, ENG TO FRAME, TAIL PIPE TO FRAME, BODY TO FRAME REAR ¹		\$95.00 ¹
478 ¹	Courtesy light disabled		\$20.00 ¹
AIRBAGS ¹	Side air protection (may affect cage availability)		Std ¹
LTNT ¹	Legal deep tinted film, lifetime warranty, dealer installed 3M OR EQUAL ¹		\$276.00 ¹
3K ¹	Third key		\$76.00 ¹

VEHICLE:	Crown Victoria (P7B/720A)	Crown Victoria (P7B/720A)	Crown Victoria (P7B/720A)	Crown Victoria (P7B/720A)
DEALER:	Garber Ford Mercury, Inc.	Garber Ford Mercury, Inc.	Garber Ford Mercury, Inc.	Garber Ford Mercury, Inc.
ZONE:	Western	Northern	Central	Southern
BASE PRICE:	\$20,578.00	\$20,578.00	\$20,578.00	\$20,578.00

950B ¹	Keyed alike Code # 1284X MUST SPECIFY KEY CODE ON PURCHASE ORDER BEFORE ORDER IS PLACED ¹	\$50.00 ¹
14R ¹	Factory remote keyless entry with 2 fobs included. FOR EXTRA KEY FOB ADD \$80 ¹	\$255.00 ¹
96B ¹	Front door moldings, not installed MUST SPECIFY ON PURCHASE ORDER ¹	NC ¹
95V ¹	Vent visors - stick-on style INSTALLED ¹	\$130.00 ¹
RS ¹	Rainshields - flange style INSTALLED ¹	\$130.00 ¹
DBB ¹	Door blank & rear window barriers with manual lock override (Setina, Pro-Gard, Cruisers or approved equivalent)	\$450.00 ¹
98G ¹	Locking gas cap INCLUDES TWO KEYS ¹	\$10.00 ¹
952 ¹	Two-tone paint Royal Blue body color w/ accent white, royal blue bumpers.	\$885.00 ¹
11C13 ¹	Class III hitch with 2" ball, dealer installed INCL WIRING FOR TRAILER LIGHTS ¹	\$495.00 ¹
PART D ¹	Optional equipment - specify LABOR RATE PER HOUR. INCLUDES HARNESS, HARDWARE & SUPPLIES SEE FOOTNOTE PART D ¹	\$85.00 ¹
51B ¹	Optional equipment - specify DRIVER'S SPOTLIGHT PREP ASSEMBLY. INCL WITH PART D. NA WITH \$190 (\$140 SPOT LIGHT, FOR DUAL SPOT LIGHT PREP (\$12) \$180 ¹	\$90.00 ¹
11AVIS C ¹	Optional equipment - specify BASE HAVIS CONSOLE ¹	\$496.00 ¹
90B ¹	Optional equipment - specify DRIVER & PASS SIDE BALLISTIC DOOR ¹	\$2,485.00 ¹
ALTD ¹	Optional equipment - specify ALTERNATIVE DESTINATION INCL DEALER PDM ¹	\$390.00 ¹
SPB12 ¹	Setina PB100A12 - 12" Aluminum Push Bumper	\$393.00 ¹
SPB16 ¹	Setina PB100A16 - 16" Aluminum Push Bumper	\$436.00 ¹
SPB300 ¹	Setina PB300 Push Bumper	\$436.00 ¹
GR-5 ¹	Go Rhino 5000 Series Push Bumpers	\$393.00 ¹
LRS ¹	Rear Transport Seat - Laguna System 3P	\$636.00 ¹
PGRS ¹	Rear Transport Seat - Pro Gard 6000 Series	\$496.00 ¹
PCM012 ¹	Rear Transport Seat - Cruiser PCM012	\$496.00 ¹
PSCV1 ¹	Rear Transport Seat with extended seat belt - Patriot PSCV1	\$533.00 ¹
S10 ¹	Setina #10 Series Lexan Cage with sliding window, full width lower extension panel, dealer installed	\$756.00 ¹
S8 ¹	Setina 8S Lexan cage with 1/2 lexan and 1/2 expanded metal with full lower extension panel, dealer installed	\$756.00 ¹

VEHICLE:	Crown Victoria (P7B/720A)	Crown Victoria (P7B/720A)	Crown Victoria (P7B/720A)	Crown Victoria (P7B/720A)
DEALER:	Garber Ford Mercury, Inc.	Garber Ford Mercury, Inc.	Garber Ford Mercury, Inc.	Garber Ford Mercury, Inc.
ZONE:	Western	Northern	Central	Southern
BASE PRICE:	\$20,578.00	\$20,578.00	\$20,578.00	\$20,578.00
PG2600 ¹	Pro-Gard P2600 Series Polycarbonate (Lexan) Cage with sliding window, full width lower extension panel, dealer installed			\$646.00 ¹
PVP1120 ¹	Patriot VP1-120 Lexan cage with 1/2 lexan and 1/2 metal with full lower extension panel, dealer installed			\$686.00 ¹
PVP1100 ¹	Patriot VP1-100 all Lexan cage with full lower extension panel, dealer installed			\$686.00 ¹
CC SLIDE ¹	Cruisers Cage with slide and lock window, lower extension panels, dealer installed			\$756.00 ¹
CC LEX ¹	Cruisers Cage with 1/2 Lexan and 1/2 mesh, lower extension panels, dealer installed			\$756.00 ¹
K9 ¹	K-9 Container. All aluminum In-Vehicle (rear seat area) K-9 Container to protect the public, officer, K-9, and vehicle. Please specify vehicle year, make and model. Call for installation, shipping, and/or delivery prices.			\$2,080.00 ¹
ERD ¹	Electronic Remote Rear Door Opening system to be used with the K-9 Container. Allows the officer to release the K-9 from the vehicle from a remote position. <i>FOR REMOTE ADD \$395 ¹</i>			\$940.00 ¹
HAS626 ¹	Heat Alarm System to be used in a K-9 vehicle. Warns officer when dangerously high temperatures are inside the vehicle.			\$626.00 ¹
TEMP ¹	Temporary tag			\$6.00 ¹
TXFR ¹	Transfer existing registration (must provide tag number)			\$105.00 ¹
TAG ¹	New state tag (specify state, county, city, sheriff, etc.)			\$133.00 ¹
DSM ¹	Complete set of shop manuals ONLY <i>INCL BINDER ¹</i>			\$325.00 ¹
BASE 5-75 ¹	Warranty - specify <i>BASE CARE 5YR 75K, \$0 DED ¹</i>			\$2,745.00 ¹
EXTRA 5-75 ¹	Warranty - specify <i>EXTRA CARE 5YR 75K, \$0 DED ¹</i>			\$2,385.00 ¹
PREM 5-75 ¹	Warranty - specify <i>PREMIUM CARE 5YR 75K, \$0 DED ¹</i>			\$3,630.00 ¹

**Garber AutoMall: Ford-Dodge-Chevrolet
Pricing Sheet for Emergency Vehicle Lighting
Bid 09-17-0908**



Order Code	Add Options	Price
Premium Lightbar Package:		
CPLB - LED 2 TIER ¹	Code 3 Defender® (Model DF47 A2). Code 3 Defender® (Model DF47 A2) includes brand new Code 3 Tri-Core™ light source modules: Four (4) front TC6 modules, Six (6) rear TC6 modules, pair of TC take-downs, pair of TC alleys; Siren & Light Controller; 3892LG Master Com siren, or 3197R C3 siren or Handheld H2 Covert 3599LS siren; C3100 Speaker, New Lit3Kit Mounting Kit.	\$2,702
DRPLB - LED 144 ¹	D&R Electronics - (Model DRPLB-46-144) PROWLER-II 46" Lightbar, LED, 100% filled with no open holes Single tier, with 8 Linear, Front Facing 6-LED Light Modules, 8 Linear, Rear Facing 6-LED Light Modules, and 8 Linear, Corner, 6-LED Light Modules. Light bar has a total of 144 High Power 660 3.5 LED's. Includes INTIMIDATOR Light and Siren Controller, include Alley lights and Take down Lights, Compact 100-Watt Siren Speaker and bracket. LED Light-Bar and Siren Speaker are SAE Certified and Approved. Specify vehicle and lightbar color - (Renz/Blue, Blue/Blue) PART # PL46FS-LBF3K.	\$1,820
DRPLB - LED 132 ¹	D&R Electronics - (Model DRPLB-46-132) PROWLER-II 46" Lightbar Deluxe modules, 8 Linear, Front Facing 6-LED Light Modules, 8 Linear, Rear Facing 6-LED Light Modules, RDS-RK compact Intimidator Light and Siren Controller, 100-watts, include Alley lights and Take down, Siren Speaker and bracket. Specify vehicle and lightbar color - X (RB, BB) PART # PLFS46-11N5S-XX.	\$1,615

Garber AutoMall

RAVP ²	Routan interior front and rear mount, vehicle specific, low profile LED Scoutlight-S light assembly, one piece flash guard, field up-gradable to different color configurations. Interior or exterior mount, LED Slimlight-S light stick, available in 5, 9, 17, 25 or 33 inch lengths. Combination Light Controller /Siren. Speaker, and Bracket.	\$580
SAVP ²	Signal: Administrative Vehicle Package - Consist of Interior Rearview Mirror LED light; Rear deck or headliner LED lights min of 2. Headlight flasher, four corner strobe system 60 watt min. Choice of LCS770 combination light controller/ siren or LCS 880 Full Feature Handheld light controller/ siren. Speaker and bracket - LED lights may be blue, red, amber or any combination.	\$935
SOAVP ²	SoundOff Signal Administrative Vehicle Package - Consist of Interior Rearview LED light, rear deck or headliner LED lights min of 2. Headlight flasher tail light flasher, four corner strobe system 60 watt min. Combination Light controller/ Siren. Speaker and bracket. LED lights may be blue, red, amber or any combination - specify color.	\$810
WAVP ²	Whelen: All LED Administrative Vehicle Package - Consist of Interior Rearview mirror LED light; Rear deck or Headliner LED lights (min of 2). LED lights may be blue, red, amber or any combination - please specify color. Headlight flasher, Combination Light Controller/ Siren. Speaker and bracket. Four Corner LED System, may be blue, red, amber, white or any combination	\$1,095
A La Carte Lights:		
PDU42W ⁵	Power Distribution System PDU42W (D&R Electronics)	\$178
RDL ⁴	Rear deck LED, GEN 3 minimum, warning lights - LED lights may be blue, red, amber or any combination - specify color	\$214
LSL ¹	Left-hand pillar mounted 6" spotlight with clear halogen bulb	\$148
DSL ³ no CVR	Left & right-hand pillar mounted 6" spotlight with clear halogen bulb	\$340
GLL ⁴	LED, GEN 3 minimum, grille lights, 2 minimum - LED lights may be blue, red, amber or any combination - specify color (Whelen, Federal, Code 3, SoundOff Signal or approved equivalent)	\$149
RVM LED ⁴	LED, GEN 3 minimum, rear view mirror flashing lights - LED lights may be blue, red, amber or any combination - specify color (Whelen, Federal, Code 3, SoundOff Signal or approved equivalent)	\$226
SAS ⁴	Roof-mount amber strobe beacon (Whelen, Federal, Code 3, SoundOff Signal or approved equivalent)	\$46
DRRB ⁴	Roof-Mount Amber LED strobe beacon (D&R Electronics or approved equivalent)	\$103
TLL ⁴	LED, GEN 3 minimum, trunk lights, 2 minimum - LED lights may be blue, red, amber or any combination - specify color (Whelen, Federal, Code 3, SoundOff Signal or approved equivalent)	\$149
DIR ARROW ¹	LED, GEN 3 minimum, integral directional arrow activated in lightbar (with controller if required) - LED lights may be blue, red, amber or any combination - specify color. Requires purchase of lightbar.	incl
TRF LED ³	Traffic directional LED, GEN 3 minimum, arrow with 6 modules (with controller if required).	\$343

W90 ¹	Corner Strobe Kits - Whelen Kit with 4 light tubes, 6 outlet CSP 90w power supply, 2-15' cables, 2-30' cables	\$200
VERTEX ²	Corner LED Kits - (4) Whelen Vertex Series Hemispherical LED Light Head, choice of colors, red, blue, amber, white or combination - please specify colors.	\$259
FOOTNOTES		
1	INCLUDES OPT WIRING HARNESS, RELAY CONNECTOR PKG GF101 REQ 8 HRS. LABOR MULTIPLIED BY SPEC RATE. REFER TO SPEC# PART D OPTION.	
2	INCLUDES OPT WIRING HARNESS, RELAY CONNECTOR PKG GF101 REQ 7 HRS. LABOR MULTIPLIED BY SPEC RATE. REFER TO SPEC# PART D OPTION.	
3	INCLUDES ELECTRICAL INSTALL KIT. REQUIRES 3 HRS LABOR. SEE SPEC #PART D OPTION	
4	INCLUDES HARDWARE AND INSTALLATION KIT. REQUIRES 2 HRS LABOR. SEE SPEC#PART D OPTION	
5	INCLUDES HARDWARE AND INSTALLATION KIT. REQUIRES 1 HRS LABOR. SEE SPEC#PART D OPTION	
6	INCLUDES ELECTRICAL INSTALL KIT. REQUIRES 10 HRS LABOR. SEE SPEC #PART D OPTION	
GENERAL COMMENT	SPECS 4 TO 7 REFER TO SPEC 1 OPTION PART D	
GENERAL COMMENT	QUANTITY DISCOUNTS AVAILABLE, CONTACT DEALER	

AWARDED DEALERS (continued)**Environmental Products of Florida**

1158 Elbow Way
 Winter Garden, FL 34787
Contact: James E. Schwaller
Phone: 407-798-0004
Mobile: 352-427-6605
Fax: 407-798-0014
Email: jschwaller@epofc.com

Federal Contracts Corp.

13797 N. Nebraska Ave.
 Tampa, FL 33613
Contact: Allan Mayhugh
Phone: 813-631-0000
Mobile: 813-361-9494
Fax: 813-631-0008
Email: allan@federalcontractscorp.com

Flagler Construction Equipment

4700 Millennia Blvd., Suite 500
 Orlando, FL 32839
Contact: Don D'Alessandro
Phone: 407-659-8700
Mobile: 407-383-9584
Fax: 407-659-8720
Email: ddalessandro@flaglerce.com

Flint Equipment Company

P.O. Box 6358
 Tallahassee, FL 32314
Contact: Tommy Slay
Phone: 850-575-5600
Mobile: 850-251-0741
Fax: 850-575-9972
Email: tslay@flintequipco.com

FourStar Freightliner

4765 Capital Circle N.W.
 Tallahassee, FL 32303
Contact: Truman Ingram
Phone: 800-657-1085
Mobile: 334-451-4705
Fax: 334-263-3712
Email: trumaningram@alabamafreightliner.com

G S Equipment, Inc.

1023 S. 50th Street
 Tampa, FL 33619
Contact: Marc Young
Phone: 813-248-4971
Mobile: 941-809-8703
Fax: 813-247-3397
Email: marc@gssequipment.net

Garber Chevrolet Buick Pontiac & GMC Truck, Inc.

P.O. Box 945
 Green Cove Springs, FL 32043
Contact: Daniel C. Devries
Phone: 904-264-4502
Fax: 800-766-7027
Email: garberfleet@garberautomall.com

Garber Chrysler Dodge Jeep, Inc.

P.O. Box 945
 Green Cove Springs, FL 32043
Contact: Richard Tackett
Phone: 904-264-4502
Mobile: 904-343-6266
Fax: 800-766-7027
Email: richard.tackett@garberfleetsales.com

Garber Ford Mercury, Inc.

P.O. Box 945
 Green Cove Springs, FL 32043
Contact: Richard Tackett
Phone: 904-264-4502
Mobile: 904-343-6266
Fax: 800-766-7027
Email: richard.tackett@garberfleetsales.com

GatorMoto Utility Vehicles/Transit Plus, Inc.

2426 Mayport Road
 Atlantic Beach, FL 32233
Contact: Ted Jackrel
Phone: 904-247-1818
Mobile: 904-838-8189
Fax: 904-247-2229
Email: tjackrel@gatormotouv.com

General GMC Truck Sales & Service, Inc.

360 South Military Trail
 West Palm Beach, FL 33415
Contact: Ron Miller
Phone: 561-686-8906
Fax: 561-697-8429
Email: rmiller@generalgmc.com

General Truck Equip. & Trailer Sales, Inc.

5310 Broadway Avenue
 Jacksonville, FL 32254
Contact: Joel Overfield
Phone: 904-389-5541
Mobile: 904-759-2268
Fax: 904-388-9270
Email: joel1general@aol.com

TOWN OF PALM BEACH

Town Council Meeting on: March 9, 2010

Section of Agenda

Resolutions

Agenda Title

RESOLUTION 31-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Purchase Order to Murray Logan Construction, for D-9 Storm Water Pump Station Improvements, Establishing a Construction Phase Budget 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 February 26, 2010, from H. Paul Brazil, Director of Public Works.
- Resolution No. 31-10
- Bid Tabulations

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 9, 2010

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: H. Paul Brazil, Director of Public Works

Re: Award of D-9 Storm Water Pump Station Improvements
Resolution No. 31-10

Date: February 26, 2010

STAFF RECOMMENDATION

Staff recommends that Town Council approve Resolution No. 31-10 approving the award of a construction contract in the amount of \$1,207,000 to Murray Logan Construction for D-9 Storm Water Pump Station Improvements and establishing a construction phase budget of \$1,687,000.

GENERAL INFORMATION

The D-9 Storm Water Pump Station is located at the intersection of No. Lake Way and Mediterranean Road. We will be replacing aging hydraulically driven pumps with electrically driven pumps, upgrading electrical and mechanical systems and correcting structural deficiencies.

The project will also include an estimated \$250,000 in FPL system improvements due to our increased electrical demand, and \$50,000 in drainage improvements along Mediterranean Road. The new storm water pumps at a cost of \$378,217 were previously approved by the Town Council.

The Town received three bids from our pre-approved pump station contractors on February 25, 2010 at the office of the Purchasing Agent. The bids received were as follow:

Murray Logan Construction	\$1,207,000
Chaz Equipment	\$1,381,194
Murphy Construction	\$2,022,700

The construction phase budget includes the following:

Murray Logan Bid and Contingency	\$1,207,000
FPL Est. Capital Improvements	\$250,000
Mediterranean Road Drainage	\$50,000
Project Contingency	\$180,000
TOTAL	\$1,687,000

FUNDING/FISCAL IMPACT

Funding for this project is fully contained within the FY 2010 Budget, Fund 307, Capital Improvement Program under Storm Water System.

TOWN ATTORNEY REVIEW

The proposed resolution has been reviewed by the Town Attorney and approved for legal form and sufficiency.

HPB:nb

Attachment

cc: Charles R. Langley, Assistant Director of Public Works/Engineering
Eric Brown, Assistant Director of Public Works/Operations
Douglas Terry, Water Resources Division Manager
Steve White, Construction Manager
Lynda Venne, Purchasing Agent

RESOLUTION NO. 31-10

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AWARDING A PURCHASE ORDER TO MURRAY LOGAN CONSTRUCTION FOR D-9 STORM WATER PUMP STATION IMPROVEMENTS, ESTABLISHING A CONSTRUCTION PHASE BUDGET FOR SAID IMPROVEMENTS, AND AUTHORIZING THE TOWN MANAGER TO TAKE ACTIONS NECESSARY TO COMPLETE SAID IMPROVEMENTS.

* * * * *

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

Section 1. The Town of Palm Beach project for D-9 Storm Water Pump Station Improvements is hereby awarded to Murray Logan Construction for their bid amount of \$1,207,000.

Section 2. The Town Council hereby approves a construction phase budget of \$1,687,000, including a construction contingency of \$180,000.

Section 3. The Town Manager is hereby authorized and directed to execute a contract on behalf of the Town of Palm Beach for D-9 Storm Water Pump Station Improvements with Murray Logan Construction.

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 D-9 Storm Water Pump Station Improvements.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on this 9th day of March 2010.

Jack McDonald, Mayor

David A. Rosow, Town Council President

Gail Coniglio, Council President Pro Tem

William J. Diamond, Town Council Member

ATTEST:

Richard M. Kleid, Town Council Member

Joanna Cunningham, Town Clerk

Robert N. Wildrick, Town Council Member

**TOWN OF PALM BEACH
D-9 STORMWATER PUMP STATION
BID TABULATION - PUBLIC WORKS BID NO. 2010-01**

Contractor: Address: Telephone: Fax: Contact:				CHAZ EQUIPMENT		MURRAY LOGAN		MURPHY CONST	
				3180 Fairlane Farms Rd. Wellington, FL 33414		313 65th Trail N. West Palm Beach, FL 33413		1615 Clare Avenue West Palm Beach, FL 33401	
				561-333-2109		561-686-3948		561-655-3634	
				561-333-2180		561-686-7465		561-655-3674	
				Robert H. Wight		David Logan		John E. Murphy	

Bid Opening: February 25, 2010 @ 4:00 PM

Opened by: *Lynda Venne*
Witnessed by: *Adis Pedraza*

TOWN OF PALM BEACH

Town Council Meeting on: March 9, 2010

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO 32-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Purchase Order to Kimley-Horn and Associates for the D-10 Storm Water Pump Station Design Services for the Town of Palm Beach.

Presenter

H. Paul Brazil, Director of Public Works

Supporting Documents

- Memorandum dated February 24, 2010, from H. Paul Brazil, Director of Public Works.
- Resolution No. 32-10
- Kimley-Horn Proposal

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 9, 2010

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: H. Paul Brazil, Director of Public Works

Re: Award of D-10 Storm Water Pump Station Design Services
Resolution No. 32-10

Date: February 24, 2010

STAFF RECOMMENDATION

Staff recommends that Town Council approve Resolution No. 32-10 authorizing the award of the D-10 Storm Water Pump Station Design Services in the amount of \$115,750 to Kimley-Horn and Associates, and establishing a design phase budget of \$130,000.

GENERAL INFORMATION

Contained within the Accelerated Capital Improvement Program is the design and construction of improvements to the D-10 Storm Water Pump Station at the intersection of No. Lake Way and Via Marila. We will be replacing aging hydraulically driven pumps with electrically driven pumps, upgrading electrical and mechanical systems and correcting any structural deficiencies.

We have negotiated a Design Phase Services contract with Kimley-Horn and Associates in the amount of \$115,750. Staff also recommends a project contingency of 10%, resulting in a total estimated amount of \$130,000.

FUNDING/FISCAL IMPACT

Funding for this Accelerated Capital Improvement Program project is fully contained within the Bond Proceeds Construction Fund.

TOWN ATTORNEY REVIEW

This is a standard resolution in a form previously approved by the Town Attorney for legal form and sufficiency.

HPB:mrs

Attachment

cc. Charles R. Langley, Assistant Director of Public Works/Engineering
Eric B. Brown, Assistant Director of Public Works/Operations
James M. Bowser, Town Engineer
Douglas Terry, Water Resources Division Manager
Steve White, Construction Manager

RESOLUTION NO. 32-10

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AWARDING A PURCHASE ORDER TO KIMLEY-HORN AND ASSOCIATES FOR THE D-10 STORM WATER PUMP STATION DESIGN SERVICES FOR THE TOWN OF PALM BEACH.

* * * * *

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

Section 1. The D-10 Storm Water Pump Station design services is hereby awarded to Kimley-Horn and Associates for their proposal amount of \$115,750. After allowance for a 10% contingency, the total amount authorized for the design phase of this project is \$130,000.

Section 2. The Town Manager is hereby authorized and directed to execute a purchase order on behalf of the Town of Palm Beach for design services with Kimley-Horn and Associates.

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 completion of the design services for the D-10 Storm Water Pump Station.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on this 9th day of March 2010.

Jack McDonald, Mayor

David A. Rosow, Town Council President

Gail Coniglio, Town Council President Pro Tem

William J. Diamond, Town Council Member

ATTEST:

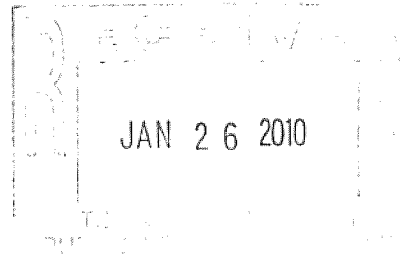
Richard M. Kleid, Town Council Member

Joanna Cunningham, Town Clerk

Robert N. Wildrick, Town Council Member



Kimley-Horn
and Associates, Inc.



January 22, 2010

4431 Embarcadero Drive
West Palm Beach, Florida
33407

Mr. Chuck Langley
Town of Palm Beach
951 Old Okeechobee Road
Suite A
West Palm Beach, Florida 33401

Re: D-10 Stormwater Pumping Station Improvements Engineering Services

Dear Chuck:

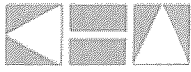
Kimley-Horn and Associates, Inc. ("CONSULTANT") is pleased to submit this proposal to The Town of Palm Beach ("TOWN" or "CLIENT") for providing professional engineering services related to the improvements at the D-10 stormwater pumping station (SWPS) located on North Lake Way just west of its intersection with Via Marila. This proposal addresses design and permitting services. Our project understanding, scope of services, schedule, and fee follow.

Project Understanding

It is our understanding that the Town desires to increase the reliability of the existing D-10 SWPS. This involves replacing the electrical and mechanical systems of the current station as well as making the structural modifications necessary to support those systems.

The station improvements include the replacement of three 26,000 GPM hydraulic stormwater pumps with new electric submersible pumps with a capacity approximately equivalent to the existing pumps. The existing duty pump will also be replaced with a new electric submersible pump. The existing diesel engines and hydraulic systems will be replaced with one large generator to provide backup power to the main pumps and a smaller generator to provide backup power to the duty pump, ventilation system, lift station E-3, and all other station ancillary equipment and controls. The replacement design of the existing ventilation, electrical and control systems along with provisions for lift station E-3 to be provided with primary and back-up power from the D-10 station will also be performed.

We understand the Town desires to have air-cooled generators incorporated into the design. This will require a reconstruction of the existing mechanical room to make room for duct silencing equipment. It is expected that this design will be



similar to that which is currently being designed for the D-9 SWPS. This will require an increase in building height which may require ARCOM approval. For this reason, an architectural subconsultant task has been incorporated into this proposal should representation at ARCOM be required.

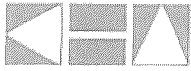
It is our understanding that the Town has decided that the improvements should not consider future provisions for two additional main stormwater pumps and an associated wetwell expansion.

The main electrical service will be served by a new pad mounted transformer. The existing transformer within the station vault will be removed and this space will be used to house the new electrical equipment. New electrical equipment will replace the existing MCC and switchgear inside the existing pump station building. The new Motor Control Center (MCC) will be provided with auto-transformer type reduced voltage starters. The pump control system will consist of an ultrasonic level system with float switch back-up controls. The existing Data Flow RTU will be replaced in order to provide for the additional status and control inputs/outputs required by the new station configuration.

The existing 72-inch reinforced concrete outfall pipe for the D-10 SWPS will be rehabilitated as part of the project. Kimley-Horn performed a visual investigation of the outfall in October 2005. As reported in the Technical Memorandum dated October 18, 2005, it was recommended that the outfall pipe be repaired due to the deterioration observed. The conceptual drainage permit issued for the overall drainage program in the Town contained provisions for a velocity dissipater at the D-10 outfall. It is expected that this requirement will be upheld by the SFWMD with the modification of the station. KHA had previously performed a preliminary design for this dissipater and this design will be reused to the greatest extent practical on this project.

KHA had begun to prepare a design for this station several years ago that contained provisions for a more substantial capacity upgrade. To the greatest extent practical, work prepared as part of that past effort will be re-used. It is expected that the survey, geotechnical investigation, outfall pipe assessment, and previously drafted existing station site plans and floor plans will be re-used to support this design effort.

It is assumed that no additional SFWMD permitting will be required for this project. The existing conceptual permit acquired by the Town was modified in 2006 to allow a 150,000 gpm station to be constructed. This project proposes a station that has considerably less capacity so the permitted capacity will not be exceeded. It has been further assumed that since all velocity dissipater improvements will be



kept within ten feet of the seawall, no additional SFWMD and/or Army Corps permitting or submerged land leases will be required.

Construction of these improvements is to occur during the off-season portion of calendar year 2011.

Scope of Services

Task I – Design Development

During this phase, Kimley-Horn will perform the following services:

General

- Attend up to four (4) design progress meetings with the Town.
- Coordination with Flygt Pumps for pump design information.
- Coordinate with product suppliers for design information (pipes, valves, etc.).
- Perform up to four (4) additional site visits to gather additional information to finalize design
- Preparation of separate specifications for the pumps, generators, electrical switchgear, and pump control panel so the Town can direct purchase these items.
- Preparation of Opinion of Probable Construction Cost

Hydraulic Modeling

- Perform hydraulic calculations for both the station and the outfall.

Structural Calculations

- Prepare structural calculations to determine if the existing mechanical room floor can adequately support the loads of the new generators.
- Prepare structural calculations for the new concrete/masonry generator room.
- Prepare structural calculations for the velocity dissipater.
- Prepare structural calculations for the pump support beams.
- Prepare structural calculations for the pump hoist beams.
- Prepare necessary structural calculations for wall penetrations or other ancillary structural improvements related to the design.

Mechanical Calculations

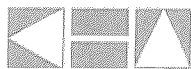
- Prepare mechanical calculations for the ventilation system.



- Prepare mechanical calculations for the ventilation and generator exhaust silencers.

Pump Station Construction Plan Preparation

- Construction plans suitable for use by the Town's selected contractor will be prepared containing the following information:
 1. Cover Sheet
 2. Site Plan
 3. Area Demolition Plan
 4. Pump Station Mechanical/Structural Demolition Plan and Section
 5. Existing Pump Station Mechanical Modification Plan, Sections and Details
 6. Existing Pump Station Structural Modification Plan, Sections and Details
 7. Generator Room Foundation/Floor/Roof Plan, Sections and Details
 8. Generator Room Elevations
 9. Generator Room Mechanical Plan
 10. Mechanical Details
 11. Structural Details
 12. Velocity Dissipater Plan and Details
 13. Applicable Construction Details
 14. Electrical Legend and Notes
 15. Electrical Site Plan
 16. Electrical Riser Diagram
 17. Power and Control Plan
 18. Lighting Plan
 19. Motor Control Diagrams
 20. Electrical Schedules and Details
- Electrical Plans and Specifications will be prepared by a subconsultant retained by Kimley-Horn
- Preparation of Technical Specifications
- Submittal of plans and specifications for review at 30%, 60%, and 95%, and final completion stages
- Accommodate reasonable requests for revisions after 30%, 60%, and 95% submittals



Task II – ARCOM Review

In the event the building improvements require ARCOM approval, KHA will retain an Architectural subconsultant to represent KHA and the Town through the approval process. The subconsultant will prepare elevation views of the building that detail the architectural treatments on the proposed building and attend the ARCOM hearings during their review of the project.

Additional Services

Any services not specifically provided for in the above scope, as well as any changes to the scope requested by the Town, will be considered additional services. Additional services we can provide include, but are not limited to, the following:

1. Army Corps of Engineers and SFWMD Permitting
2. Seagrass and/or Environmental Assessments
3. Off-site collection system piping improvements
4. Survey and/or geotechnical engineering
5. Construction Phase Services

Information and Services Provided By Others

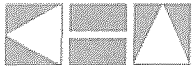
We shall be entitled to rely upon the accuracy of information provided by others in the performance of professional services. It is anticipated that the following items will need to be provided to KHA by the Town during the project.

1. Access to the site.
2. Applicable permissions from private property owners to access their properties along the outfall pipe route and outfall area.

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 tasks listed in the Scope of Services:

Task I	\$112,750
Task II	\$3,000
Total	\$115,750



Kimley-Horn
and Associates, Inc.

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., 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.

Very truly yours,

KIMLEY-HORN AND ASSOCIATES, INC.

By: Kevin Schanen, P.E.
Associate

Attachment

cc: File

K:\WPB_Civil\General\Schanen\Proposals\Palm Beach\D-10\2010 D-10\D-10 Proposal new.doc

TOWN OF PALM BEACH

Town Council Meeting on: March 9, 2010

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 34-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Execution of a Maintenance Contract Between Bolo Corporation and the Town of Palm Beach Providing Service and Maintenance to the License Plate Reader (LPR) System Located in the Town of Palm Beach, Florida.

Presenter

Kirk Blouin, Chief of Police

Supporting Documents

- Memorandum dated February 25, 2010, from Kirk W. Blouin, Chief of Police
- Resolution No. 34-10

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 9, 2010

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: Kirk W. Blouin, Chief of Police

Re: Bolo Corporation Maintenance Contract for License Plate Readers (LPR)
Resolution No. 34-10

Date: February 25, 2010

STAFF RECOMMENDATION

Staff recommends that the Town Council approve Resolution 34-10 to enter into a one (1) year contract with Bolo Corporation to provide ongoing maintenance of software and hardware of the current License Plate Reader (LPR) System already in place and operated by the Palm Beach Police Department. The annual maintenance contract amount is \$36,500.

GENERAL INFORMATION

The Palm Beach Police Department utilizes, as a part of the system of security measures, ten (10) license plate readers (LPR's) placed at strategic locations in the Town of Palm Beach to monitor traffic flow and assist in crime prevention and criminal investigations. The LPR system has been in use for over four (4) years and has provided invaluable information and has aided in the successful outcome of criminal investigations. The maintenance contract is critical in keeping the current system operating at peak performance.

FUNDING/FISCAL IMPACT

Funds for this contract are allocated annually as part of the Police Department's budget and are currently available in the FY 10 budget.

SPECIAL CONSIDERATIONS

This contract is critical as certain pieces of equipment are nearing the end of the warranty period and the maintenance contract will ensure continued service and operation.

TOWN ATTORNEY REVIEW

The contract provided by Bolo Corporation has been reviewed and approved by Town Attorney John Randolph for legal form and sufficiency.

KWB:nt
Attachments

RESOLUTION NO. 34-10

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF
PALM BEACH, PALM BEACH COUNTY, FLORIDA,
AUTHORIZING THE EXECUTION OF A MAINTENANCE
CONTRACT BETWEEN BOLO CORPORATION AND THE
TOWN OF PALM BEACH PROVIDING SERVICE AND
MAINTENANCE TO THE LICENSE PLATE READER (LPR)
SYSTEM LOCATED IN THE TOWN OF PALM BEACH,
FLORIDA.**

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

That the Chief of Police is hereby authorized and directed to execute the Maintenance Contract between Bolo Corporation and the Palm Beach Police Department for service and maintenance for the License Plate Reader (LPR) system located in the Town of Palm Beach, Florida. The contract amount is \$36,500 and it will remain in effect for a period of one year.

**PASSED AND ADOPTED IN A REGULAR, ADJOURNED SESSION OF THE TOWN
COUNCIL OF THE TOWN OF PALM BEACH ON THIS 9TH DAY OF MARCH, 2010.**

Jack McDonald, Mayor

David A. Rosow, Town Council President

Gail Coniglio, Town Council President Pro Tem

William J. Diamond, Town Council Member

ATTEST:

Richard M. Kleid, Town Council Member

Joanna Cunningham, Town Clerk

Robert N. Wildrick, Town Council Member

TOWN OF PALM BEACH

Town Council Meeting on: March 9, 2010

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 36-10 A Resolution of the Town of Palm Beach, Palm Beach County, Florida, Amending Recreation Department Fees for Fiscal Year 2010.

Presenter

Jay Boodheshwar, Director of Recreation

Supporting Documents

- Memorandum Dated February 26, 2010, from Jay Boodheshwar, Director of Recreation
- Resolution No. 36-10
- Exhibit I - Tennis Facilities

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 9, 2010

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: Jay Boodheshwar, Director of Recreation

Re: Amendment to the Recreation Department Fee Schedule
Resolution No. 36-10

Date: February 26, 2010

STAFF RECOMMENDATION

Staff recommends the approval of Resolution No. 36-10, which will amend the FY2010 Recreation Department fee schedule as highlighted in Exhibit I - Tennis Facilities, revised February 26, 2010.

GENERAL INFORMATION

Staff recommends the addition of a 12 Play Pass to the FY2010 Tennis Facilities schedule of fees. If approved, tennis players would be able to purchase the 12 Play Pass at the cost of 10 daily fees, plus the appropriate maintenance fee. The passes would be effective immediately and would expire at the end of the fiscal year. The 12 Play Pass will provide an incentive to pre-purchase daily fees at a discounted rate. The concept of this new program is comparable to the current annual pass, which allows players to pre-purchase daily fees for the entire year at a considerably discounted rate. The 12 Play Pass program would also be consistent with a similar program currently in place at the Par 3 Golf Course, which has proven to be very popular from a marketing and revenue standpoint.

Staff is recommending the addition of this program to incentivize tennis players who do not purchase annual passes, to make short-term commitments to our public courts. The proposed program would offer an option that may be very attractive to both our year round residents who play infrequently and vacationers who are here for only a few weeks. This opportunity is also expected to be well received by players during the off season months, when the courts are less busy.

Staff had planned to propose this program during the FY2011 budget process after receiving feedback from the Recreation Commission in the fall of 2009, but felt that it would be advantageous to implement it now, in preparation for the upcoming summer months. Your

approval of this request would be consistent with recent Council actions to allow for more creative pricing strategies and programs to maximize play and market our programs more effectively.

FUNDING/FISCAL IMPACT

It is difficult to estimate the net impact of the proposed program, as many of the potential purchasers of the 12 Play Pass will be current daily fee players. However, staff anticipates that this new option will prove to be popular and over time may increase play during the historically slower summer months.

TOWN ATTORNEY REVIEW

Resolution No. 36-10 is a standard resolution which the Town Attorney has previously approved for legal form and sufficiency.

cc: Recreation Commission Members
Jane Struder, Finance Director
Alan Brown, Assistant Recreation Director

RESOLUTION NO. 36-10

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING RECREATION DEPARTMENT FEES FOR FISCAL YEAR 2010.

* * * * *

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

The attached list of Recreation Department Fees and effective dates, identified as Exhibit I – Tennis Facilities, revised on February 26, 2010, incorporated by reference as part of this resolution, is hereby adopted.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 9th day of March 2010.

Jack McDonald, Mayor

David A. Rosow, Town Council President

Gail Coniglio, Town Council President Pro Tem

William J. Diamond, Town Council Member

ATTEST:

Richard M. Kleid, Town Council Member

Joanna Cunningham, Town Clerk

Robert N. Wildrick, Town Council Member

**FY2010 Fee Schedule: Recreation Department
Proposed Amendment**

Exhibit I – Tennis Facilities

FEE CLASSIFICATION

(Fees listed do not include tax)

<u>Annual Passes</u>	<u>FY-2010 Fee</u>
Annual Pass - Resident Adult	\$379.50
Annual Pass - Resident Junior	\$68.00
Annual Pass - Resident Family	\$569.50
Annual Pass - Non-Resident Adult	\$712.00
Annual Pass - Non-Resident Junior	\$210.00
Annual Pass - Non-Resident Family	\$1,028.00
Maintenance & Improvement Fee - Adult	\$30.00
Maintenance & Improvement Fee – Junior	\$10.00

<u>Daily Court Fees</u>	<u>FY-2010 Fee</u>
Resident Adult	\$7.50
Resident Junior	\$3.50
Non-Resident Adult	\$14.50
Non-Resident Junior	\$7.50
Maintenance & Improvement Fee	\$0.50

<u>12 Play Passes (Proposed Addition)</u>	<u>FY-2010 Proposed Fee</u>
Resident Adult 12 Play Pass	\$75.00
Resident Junior 12 Play Pass	\$35.00
Non-Resident Adult	\$145.00
Non-Resident Junior	\$75.00
Maintenance & Improvement Fee	\$6.00

TOWN OF PALM BEACH

Town Council Meeting on: March 9, 2010

Section of Agenda

Consent - Other

Agenda Title

Approval of Settlement in the Matter of Mengoni vs Town of Palm Beach.

Presenter

John C. Randolph, Town Attorney

Supporting Documents

- Memorandum dated February 22, 2010, from John Randolph

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 9, 2010

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: John C. Randolph, Town Attorney

Re: Fred Mengoni vs Town of Palm Beach
Case No. 50 2002 CA 009872 AF

Date: February 22, 2010

STAFF RECOMMENDATION

Staff recommends that the Town Council authorize the settlement of the case of Fred Mengoni vs Town of Palm Beach by way of payment to the Plaintiff in the amount of \$85,000.00 in exchange for a dismissal of the case with prejudice, with each party to bear their own costs and fees and a complete release from the Plaintiff, including a release and indemnification from all liens. In addition to the above referenced payment, the Plaintiff requests, as part of the settlement, an apology from the Town which staff would recommend be in the form of a letter from the Mayor.

GENERAL INFORMATION

This complaint was filed August 15, 2002, and is a claim for damages by Plaintiff, Fred Mengoni, who is a resident of New York City, who was 77 years of age at the time of the accident, and who, on or about January 11, 2001, was injured in a bicycle accident on Ocean Boulevard within the Town of Palm Beach. Plaintiff alleges that Defendant Town's employees negligently left tree trimmings, including branches and/or limbs, on the roadway protruding from the right-of-way causing Plaintiff to fall when the bicycle he was riding came into contact with said branches. Plaintiff alleges that the Defendant breached its duty to Plaintiff by failing to remove the tree branches from the roadway; to properly maintain the roadway and clear it of debris while its crews cut tree limbs and branches which landed in the roadway; to sufficiently warn or otherwise properly place barricades, cones or other warning devices to alert roadway users as to the presence of falling or fallen tree limbs and branches; or to properly instruct or train its tree cutting crews in regard to the safe and prudent manner to deal with such tree trimming services.

As a direct and proximate result of the alleged negligence of the Town, Plaintiff alleges he was comatized and hospitalized in intensive care, suffered permanent injuries and sustained medical bills in the amount of approximately \$164,673.26. Medicare paid Plaintiff

approximately \$109,311.93, for which they have a lien against any monies paid Plaintiff as a result of the accident.

Although Mr. Mengoni remembers nothing about the accident, there are two eye witnesses who were driving a rental car at the time who indicated that Mr. Mengoni fell as a result of branches getting tangled in his wheels.

The Town has many affirmative defenses to this claim, including the fact that the condition alleged by Plaintiff was patent, readily discoverable and, therefore, the Town of Palm Beach had no legal duty to warn of the alleged condition; that the Town of Palm Beach used reasonable care to warn Plaintiff of the alleged condition and that the Plaintiff's damages were caused by his own negligence.

In spite of the Town's affirmative defenses, there is a probability that the Plaintiff could be successful in obtaining a verdict from a jury in an amount in excess of the \$85,000.00 that Plaintiff has agreed to in settlement. The case is set for jury trial on a docket running from May 17, 2010 through June 25, 2010.

FUNDING/FISCAL IMPACT

The fiscal impact to the Town would result from the payment of \$85,000.00 from the Town's Risk Fund.

TOWN OF PALM BEACH

Town Council Meeting on: March 9, 2010

Section of Agenda

Consent - Other

Agenda Title

Budget Calendar for FY11 Budget Process

Presenter

Jane Struder, Director of Finance

Supporting Documents

- Memorandum Dated March 3, 2010, from Jane Struder, Finance Director
- FY11 Budget Calendar

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 9, 2010

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: Jane Struder, Finance Director

Re: Budget Calendar for FY11 Budget Process

Date: March 3, 2010

STAFF RECOMMENDATION

Staff recommends that the Town Council approve the proposed FY11 budget calendar.

GENERAL INFORMATION

The attached budget calendar for FY11 includes all significant deadlines and meetings that are planned for the budget process. These include both State mandated actions (e.g. the special Town Council meeting in June and public hearings in September) and the Town's self directed actions (e.g. the special Town Council meeting in April to review the Long Term Financial Plan, Recreation Enterprise Fund Business Plan, and pensions). Items requiring Town Council action are shown in bold type on the calendar.

The dates for the public hearings in September are tentative and are subject to change based on the dates of the County and School Board public hearings. Significant dates during the budget process include:

April 6, 2010 – Review of Long Term Financial Plan and Recreation Enterprise Fund Business Plan and Town Manager's recommendations for modifying the Town's pension plans.

June 21, 2010 – Special Town Council meeting to review Town staff's proposed FY11 budget.

September 14, 2010 at 5:01pm – First public hearing on tentative budget and proposed tax rate.

September 29, 2010 at 5:01pm – Second public hearing on budget and proposed tax rate.

Staff looks forward to working closely with the Mayor and Town Council on the FY11 budget.

jls

cc: Department Directors
Thomas G. Bradford, Deputy Town Manager
John C. Randolph, Town Attorney

Proposed Budget Calendar

January

- 1 *Town Hall closed - New Year's Day*
- 12 & 13 Regular monthly Town Council meeting**
- 18 *Town Hall Closed - Martin Luther King, Jr. Day*

February

- 9 & 10 Regular monthly Town Council meeting**

- 15 *Town Hall closed - President's Day*

March

- 9 & 10 Regular monthly Town Council meeting**
- 12 *Finance to distribute FY10 Proposed Budget instructions and Capital improvement project requests to all departments*
- 25 *Submit initial CIP request forms to the Public Works Director & Finance*
- 26 *Capital Improvement Project requests reviewed by the Public Works Director with individual departments*

April

- 6 Special Town Council meeting re: Long Term Financial Plan, Recreation Enterprise Fund Business Plan, and Pensions**
- 13 & 14 Regular monthly Town Council meeting**
- 19 *Public Works Director forwards prioritized CIP requests to Finance Director*
- 19 *Departmental proposed budget requests due in Finance Department, Full Time Equivalent, Departmental Non-Ad Valorem Revenue estimates*
- 22 *First review of Information Systems and Recreation Enterprise Fund budgets*
- 23 *First review of Fire Rescue budget*

January 2010

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31						

February 2010

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28						

March 2010

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April 2010

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11	12	13	14	15	16	17
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25	26	27	28	29	30	

Final Budget Calendar

May

11 & 12 Regular monthly Town Council Meeting

- 14 First review of Police budget
- 20 First review of Planning/Zoning/Building, and Risk budgets Human Resources (including Health & OPEB)
- 21 First review of Public Works and Capital budgets
- 27 First review of Town Manager, Finance, & Town Clerk,
- 28 Budget Document pages sent to departments for updating
- 31 Town Hall closed - Memorial Day

May 2010

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23	24	25	26	27	28	29
30	31					

June

- 1 Property Appraiser issues preliminary property values
- 21 **Special Town Council Meeting To Consider Staff's Proposed FY11 Budget**
- 22 **Regular Monthly Town Council Meeting**

June 2010

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27	28	29	30			

July

- 1 Notice from Property Appraiser of rolled back rate F.S.200.065(1) and Preliminary Certification of Taxable Value for 2009
- 5 Town Hall closed - Independence Day

July 2010

S	M	T	W	T	F	S
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25	26	27	28	29	30	31

13 & 14 Regular monthly Town Council meeting

August

- Week of 9 Notice of Proposed Property Taxes is mailed from Palm Beach Property Appraiser to property owners

10&11 Regular monthly Town Council meeting

August 2010

S	M	T	W	T	F	S
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29	30	31				

Final Budget Calendar

September

6 Labor Day - Town Hall closed

14&15 Regular monthly Town Council meeting

14 5:01pm Town Council first public hearing to approve tentative budget and proposed tax rate for FY11

29 5:01pm Town Council second public hearing to adopt FY11 budget and tax rate

October

1 Resolution adopting final millage rate is forwarded to Property Appraiser and the Tax Collector

1 Complete Certificate of Compliance with Provisions of F.S. Chapter 200 to the Property Tax Administration Program, Department of Revenue

12 & 13 Regular monthly Town Council meeting

November

9&10 Regular monthly Town Council meeting
Present Long Term Financial Plan and Recreation Enterprise Fund Business Plan

11 Veteran's Day - Town Hall closed

25 & 26 Thanksgiving Holidays - Town Hall closed

December

14 & 15 Regular monthly Town Council meeting

23 & 24 Town Hall closed - Christmas holiday

30 & 31 New Year's Eve - Town Hall closed

September 2010

S	M	T	W	T	F	S
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October 2010

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November 2010

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28	29	30				

December 2010

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TOWN OF PALM BEACH

Town Council Meeting on: March 9, 2010

Section of Agenda

Consent - Other

Agenda Title

Acceptance of a Donation from the Palm Beach Police Foundation in the Amount of \$70,000 for a New Weapons System.

Presenter

Kirk Blouin, Chief of Police

Supporting Documents

- Memorandum dated February 25, 2010, from Kirk W. Blouin, Chief of Police

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 9, 2010

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: Kirk W. Blouin, Chief of Police

Re: Donation for New Weapons System

Date: February 25, 2010

STAFF RECOMMENDATION

Staff recommends that the Town Council accept a donation from the Palm Beach Police Foundation in the amount of \$70,000 for the specific purpose of replacing the current weapons system.

GENERAL INFORMATION

The Palm Beach Police Foundation received a donation in the amount of \$70,000 from Mr. Daniel Borislow for the express purpose of replacing our current handguns with a completely new weapons system. The donation amount is sufficient to cover all costs relating to the transition to a new weapons system including the handguns, holsters, lights and ammunition, resulting in no monetary impact on the current or subsequent fiscal year budgets.

Our current handgun, the Beretta 96G, was purchased in 1997 and is no longer in production. Parts are either difficult or impossible to obtain resulting in the cannibalizing of a few handguns to keep others operational. The Beretta 96G does not allow for the inclusion of a lighting system. Most new weapons now incorporate this into the design. The size of the Beretta 96G makes it difficult for some personnel to fire the weapon effectively.

The department would like to replace the current weapons system with the Smith & Wesson M&P. The department has been evaluating available handguns for some time with caliber, light rail, adjustable grip size and durability as key factors in the evaluation process. The Smith & Wesson M&P meets or exceeds our expectations in every category, has a variety of holster and lighting options available and has inter-changeable grips, allowing for size adjustment based on the user. As a result of over three (3) years of evaluation, the Firearms Committee recommended and received approval from the Chief of Police for the Special Operations Unit to convert to the Smith & Wesson M&P 40 caliber handgun in 2009.

The department's current weapons will be traded to the dealer and the value applied to the purchase of the new weapons system in accordance with Town of Palm Beach Purchasing guidelines.

FUNDING/FISCAL IMPACT

The donation will cover all related costs associated with the conversion from the current weapons to the new weapons system with the exception of the actual training time necessary. Training time is a regular occurrence regardless of the change and will have little, if any, impact and will be absorbed into the Police Department's current FY10 training budget.

KWB:lsg

cc: Jane Struder, Director of Finance

TOWN OF PALM BEACH

Town Council Meeting on: March 9, 2010

Section of Agenda

Consent - Other

Agenda Title

Approval of Certificate of Correction of Non-Ad Valorem (Assessment Roll for 172 Worth Avenue for the Worth Avenue Commercial District Assessment).

Presenter

Thomas G. Bradford, Deputy Town Manager

Supporting Documents

- Memorandum dated February 24, 2010, from Thomas G. Bradford, Deputy Town Manager
- Certificate of Correction 172 Worth Avenue Land Assessment

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 9, 2010

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: Thomas G. Bradford, Deputy Town Manager

Re: Approval of Certificate of Correction of Non-Ad Valorem Assessment Roll for the 172 Worth Avenue Property in the Worth Avenue Commercial District Assessment Program

Date: February 24, 2010

STAFF RECOMMENDATION

Staff recommends that the Town Council approve one (1) Certificate of Correction applicable to the property owned by Worth Avenue Associates Ltd. at 172 Worth Avenue located within the Worth Avenue Commercial District assessment area. By approving this recommendation a refund will be made by the Tax Collector to the referenced property owner in the amount of \$8,433.30 for the Phase I parcel assessment approved on September 10, 2009 for land this parcel technically does not have as explained below. The Town Council should authorize the Town Manager to be the local government representative authorized to sign the Certificate of Correction of the Non-Ad Valorem Assessment Roll on behalf of the Town.

GENERAL INFORMATION

In the Fall of 2009, Worth Avenue Associates Ltd. concluded that the Town had inadvertently assigned parcel square footage to their 172 Worth Avenue parcel that was already included in the parcel assessment for the adjacent parcel located at 150 Worth Avenue, also owned by Worth Avenue Associates Ltd. This resulted in the owner of the two parcels paying twice for the parcel or land assessment at 172 Worth Avenue.

There is a complicated lease arrangement relative to the 172 Worth Avenue parcel that results in there being no land assigned to the 172 Worth Avenue parcel for taxation and other purposes. However, the land that one would think is associated with the 172 Worth Avenue parcel is actually part of the land that constitutes the adjacent parcel at 150 Worth Avenue. Therefore, when we assigned a parcel assessment dollar amount to the land we thought existed for the 172 Worth Avenue parcel this resulted in an error because the land was in fact already assessed since it is included in the land that constitutes the parcel at 150 Worth Avenue. This information has been confirmed by undertaking an additional review of the parcel data maintained by the Property Appraiser's office. Our consultant has confirmed the validity of providing a refund.

The land assessment for this program was \$.4699 per square foot. The amount of land in question at 172 Worth Avenue is 17,947 square feet, which based upon our assessment formula, resulted in an

erroneous parcel assessment made against the 172 Worth Avenue property in the amount of \$8,433.30 ($17,947 \times \$0.4699 = \$8,433.30$). Approving this refund reduces this parcel's total assessment from \$37,134.10 to \$28,700.80 ($\$37,134.10 - \$8,433.30 = \$28,700.80$).

The proper procedure to initiate a refund is for the taxing authority (Town) to approve a Certificate of Correction for each parcel which is found to be entitled to an assessment correction. A copy of the proposed Certificate of Correction for the 172 Worth Avenue parcel, which, if approved, will be submitted to the Tax Collector, is attached as an exhibit for your review. It is recommended that this Certificate of Correction be approved and that the Town Manager be authorized to sign it to initiate the refund described in this memorandum.

FUNDING/FISCAL IMPACT

This change will result in a total parcel assessment refund to the property owner of 172 Worth Avenue in the amount of \$8,433.30 which is equal to the parcel assessment made against this parcel for land that is actually attributable to an adjacent parcel. Assessment proceeds will be reduced accordingly and the recently created Worth Avenue Bond Proceeds Construction Fund budget was created with this refund anticipated.

Attachment

cc: Jane Struder, Director of Finance
H. Paul Brazil, Director of Public Works
Chuck Langley, Assistant Director of Public Works
Cheryl Somers, Assistant Director of Finance
Peter Pimentel, Special District Services
Murray Goodman, Chairman, The Goodman Company
Lawrence A. Silvestri, Esq., Vice-President, The Goodman Company

n:\tgb\agenda items\2010\approval of certificate of correction for 172 Worth Ave



**Certificate of Correction
of**

DR-409A
R. 12/96

**Non-Ad Valorem Assessment Roll
Section 197.3632 F.S., and Rule 12D-18.006(2) F.A.C.**

Palm Beach County, Florida

To: Tax Collector

You are hereby authorized to correct the assessment, rate/basis, or legal description of the 2009
Non-Ad Valorem Assessment Roll as follows: (tax year)

Parcel or folio number 50-43-43-23-05-017-0012

Name to whom assessed Worth Avenue Associates LTD

Address 777 S. Flagler Drive # 1101

West Palm Beach, FL 33401-6125

Change legal description to: NA

Change rate/basis from: NA

to: _____

Change non-ad valorem assessment from: \$37,134.10 **to:** \$28,700.80

State reason for correction: This assessment program assessed land and building square footage. The land associated with this 172 Worth Avenue parcel is included with the land holdings that constitute the parcel at 150 Worth Avenue. Therefore, the land assessment for this parcel should be refunded since it was already assessed in the 150 Worth Avenue parcel assessment.
(attach additional documents when necessary)

Local Government Representative/Date

Town of Palm Beach

Name of Governmental Unit or Taxing Authority

RE: Worth Avenue Commercial District

White - Tax Collector
Canary - Property Appraiser
Goldenrod - Local Government

Pink -

Department of Revenue
Property Tax Administration
P.O. Box 3000
Tallahassee, Florida 32315-3000

TOWN OF PALM BEACH

Town Council Meeting on: March 9, 2010

Section of Agenda

Board/Commission Annual Report

Agenda Title

Architectural Commission Annual Report. [William P. Feldkamp, Chair and John S. Page, Director of Planning, Zoning, and Building]

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Memorandum dated February 18, 2010, from John Page
- ARCOM Report of Activities for 2009 Calendar Year

TOWN OF PALM BEACH

Information for the Town Council Meeting on: March 9, 2010

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: John Page, Director of Planning, Zoning and Building

Re: Annual Report - Architectural Commission (ARCOM)

Date: February 18, 2010

STAFF RECOMMENDATION

No Town Council action is required on this matter.

GENERAL INFORMATION

Attached is a summary of the activities of the Architectural Commission (ARCOM) for the past year. William Feldkamp, the out-going Chairman of ARCOM, is prepared to address the Town Council with additional comments regarding ARCOM's activities, and to answer any questions.

Attachment

JP/jl

cc: William Feldkamp, Chairman, Architectural Commission
Members, Architectural Commission
John Lindgren, AICP, Planning Administrator

ARCOM Commission

Report of Activities for 2009 Calendar Year

ARCOM currently has 10 members (7 regular members & 3 alternates):

- Three members are licensed architects
 - William Feldcamp (term-limited this year)
 - Jeffery Smith
 - Nikita Zukov
- One member is a master gardener
 - Ann Vanneck

Attendance by commissioners:

- An average of 87.5% attendance for all meetings during the year
- The Commission averaged slightly more than one absence per meeting (15 absences total, 4 of which were excused)

Applications reviewed:

- 86 Major Items (of which 3 were denied & 4 were removed from the agenda)
- 22 Minor Items (of which 1 was denied & 2 were removed from the agenda)
- 48 Deferrals occurred over the course of the year

On behalf of the Commission staff conducted 304 approvals of minor projects and revisions.

Additional projects & accomplishments:

- Provided feedback to the Palm Beach Civic Association regarding their Royal Poinciana Way Beautification Plan.
- Reviewed and made recommendations to Town Council regarding the Town's drafting of a "vacant store fronts" policy, and the accompanying code revisions.
- Developed a recommended "shutters" policy for commercial and residential properties in Town regarding permitted materials, timing, and notification.
- Created a new policy that ARCOM would not make a recommendation to Town Council regarding a variance request unless there was architectural review needed as part of the variance request.
- Began working with staff to develop requirements for those presenting projects before the Commission.

- ARCOM Signage Subcommittee worked with Town staff to develop a policy for sign standards so that signage in the Town would be aesthetically pleasing and eliminate “sign pollution,” yet still meet all State and Federal requirements.
- Worked with staff to develop a recommended theme for acceptable holiday decorations throughout the Town, which was forwarded onto Town Council.
- Created a policy that vinyl fencing would be permitted (through staff approval) on a single-family residential site as long as the fencing was not visible from any public right-of-way and met all code requirements.
- Continued to develop landscape regulations with staff.

Item for discussion:

- Demolition requests.

Revised: 2-22-10

TOWN OF PALM BEACH

Town Council Meeting on: March 9, 2010

Section of Agenda

Committee Reports

Agenda Title

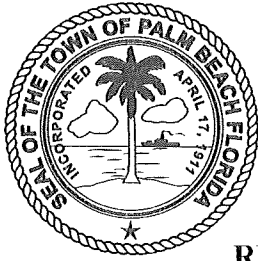
Report of the Finance and Taxation Committee Meeting held on February 18, 2010

Presenter

Joanna Cunningham, Town Clerk

Supporting Documents

- Report of the Finance and Taxation Committee Meeting held on February 18, 2010
- Risk Assessment & Audit Plan
- Risk Assessment Report



TOWN OF PALM BEACH

Office of The Town Clerk

REPORT OF THE FINANCE & TAXATION COMMITTEE MEETING HELD ON THURSDAY, FEBRUARY 18, 2010

1

I. CALL TO ORDER AND ROLL CALL

2

3 The Finance and Taxation Committee Meeting was called to order at 9:30 a.m. in the Emergency
4 Operations Center, 355 S. County Rd., Palm Beach. Chairman Wildrick and Committee Member
5 Rosow were found to be present.

6

II. PLEDGE OF ALLEGIANCE

7

8 Chair Wildrick led the Pledge of Allegiance.

9

III. APPROVAL OF AGENDA

10

11 The Agenda was approved as presented.

12

IV. REVIEW PROPOSED SCOPE OF WORK SUBMITTED BY CROWE HORWATH, INTERNAL AUDITOR

13

14 Chair Wildrick announced the role of the internal audit, which was discussed at one of the
15 previous Town Council meetings was to assure financial and various other policies were in place
16 to assure that the taxpayers' interests are protected. Typically, internal auditors report to the
17 Town Council through the Finance and Taxation Committee. The Town Council discussed
18 spending approximately \$200,000 a year for the audit, and it was also discussed that it may be
19 too heavy and settled on \$150,000. This plan presented today comes in at less than \$100,000 for
20 the first year. It appears from a budget standpoint the Town is going in the right direction.

21

22 Chair Wildrick stated that Town Manager Elwell had requested that he be at arm's length from
23 the process, so that in no way would there be any conflict of interest. The plan that would be
24 presented was from Crowe Horwath. They interviewed several staff and the Chair to coordinate
25 a scope and a review of the Town processes and procedures.

26

27 Committee Member Rosow did not have any comments prior to the presentation.

28

29 Finance Director Jane Struder stated that the internal audit proposal was from Crowe Horwath
30 and would cover:

31

- 32 • Construction contracting
- 33 • Human Resources-related risks

- Grant Management
- Accounts Payables
- Procurement risks

Finance Director noted those were the areas that Crowe Horwath recommended to be studied. She felt it was very important to study those items. If there were any risks that need to be mitigated, she would welcome their recommendations.

Ms. Deborah Garringer and Mr. Philip Stalcup from Crowe Horwath gave a power point presentation to the committee and a copy was provided for the record.

Chair Wildrick informed the Committee that Crowe Horwath held extensive talks with approximately 10-15 Town Staff from various departments.

Committee Member Rosow asked about the construction audit process and if they would create a template, to help reduce overruns etc. Ms. Garringer stated that they would develop a process to be followed for change orders, cost overruns, and bids that potentially could be a template for how the Town will conduct business.

Chair Wildrick said an internal audit ensures that it protects the Town from outside risks. Generally there are inefficiencies that save time and money. Ms. Garringer stated that a direct purchase of materials instead of having the contractors purchase is an area where Towns can save money. Chair Wildrick is not for cutting services and personnel and wants a normalized pay increase for the future, but in order to do that, they need to do it in a more efficient manner. An outside set of eyes generally more than pays for themselves. He reminded them to keep in mind the long term goal, and that sometimes when you are up to your behind in alligators, you forget the mission was to drain the swamp.

Council Member Diamond, who was in the audience, asked about the risk model and if it included hurricanes. A storm event would be considered an external risk, per Mr. Stalcup.

Committee Member Rosow noted that under Segment 2 there was no assessment of the balance sheets. He asked why it was not being looked at. Ms. Garringer responded that many categories will be focusing on the accounting in many segments. Investments would be looked at in Segment 3. She cited the Human Resources section, in particular, would address pension practices. In construction, there will be focus on the use of the bond funds.

Chair Wildrick felt that when there was a push back on the \$200,000 fee, it was decided to start with a \$100,000 budget for a "bare bones" audit and could add more items if necessary. Committee Member Rosow noticed there was no cash management and wanted that looked into. He recommended that it be added and is more important today than procurement.

Chair Wildrick agreed and it was decided to seek the approval of the Town Council to add as a priority segment immediately. Council Member Diamond asked about the analysis of buildings, structures, vehicles. Ms. Garringer stated they did not analyze any town property or insurance coverage. Chair Wildrick stated that the purpose was to minimize costs and see if the audit

provided any value. **Committee Member Rosow moved that they present the Town Council with the recommend audit items with the immediate addition of an analysis of cash management. The Committee agreed.**

Council President Pro Tem Coniglio, whom was also in the audience, was also in agreement but would wait for the formal vote in at the next Town Council meeting.

Town Manager Elwell made a brief overview for the additional piece, by stating that the Town would need the scope and costs within the next week from Crowe Horwath and they stated they would be able to comply. He welcomed the process and was glad it was a healthy thing to do. He did not want to interfere with the process and he embraces the process.

Finance Director Jane Struder reiterated the importance of the construction contract with the \$40 million plus bond Worth Avenue project. She looked forward to the recommended efficiencies, especially with the staff cutbacks.

V. ANY OTHER MATTERS

There were none.

VI. ADJOURNMENT

There being no further business, the Finance and Taxation Committee Meeting of Thursday, February 18, 2010 was adjourned at 9:58 a.m.

APPROVED:



Robert N. Wildrick
Chairman



Town of Palm Beach

Risk Assessment and Audit Plan

February 2010

Risk Assessment

Overview:

- Crowe Horwath LLP is performing a risk assessment for the Town of Palm Beach (TPB) to assist with the development and prioritization of an internal audit plan. A key mission is to identify those risks considered to be of the greatest threat to the organization and assess the controls in place to ensure that these risks are effectively mitigated. Crowe Horwath, a public accounting firm with a leading specialty in the area of risk consulting, was hired to help guide TPB through this process.
- The objectives of this risk assessment process are as follows:
 - Understanding the mission and key objectives of TPB,
 - Identifying those inherent risks that could have the greatest impact on the organization's mission and objectives and which have the highest likelihood of occurring,
 - Prioritizing these inherent risks,
 - Identifying, at a high level, the processes in place to accomplish the mission and objectives, and controls in place to mitigate these risks,
 - Making a high level judgment of how effectively management believes these processes and controls mitigate the risk (known as residual risk), and
 - Developing an audit plan designed to ensure these risks are effectively mitigated.

Key Personnel

To perform this risk assessment, Crowe Horwath has performed preliminary interviews with the following to help with identifying and assessing TPB' risks.

- Robert Wildrick, Chairman of Town Council Finance Committee
- Jane Struder, Finance Director
- Lynda Venne, Purchasing Agent
- Paul Brazil, Director of Public Works
- Spencer Wilson, CLP, Information Systems Manager
- Chuck Langley, Assistant Director of Public Works
- William Crouse and Danielle Olsen, HR Directors
- William Hanes, Plan Administrator Police and Fire Pension Plan
- Amy Wood, Accounting Supervisor
- Richard R. Howe, Major, Palm Beach Police Department
- Belinda Hardy, Office Manager Fire Rescue Department
- John S. Page, Building and Permits Director
- Veronica Close, AICP Building and Permits Assistant Director
- Cheryl Somers, Assistant Finance Director

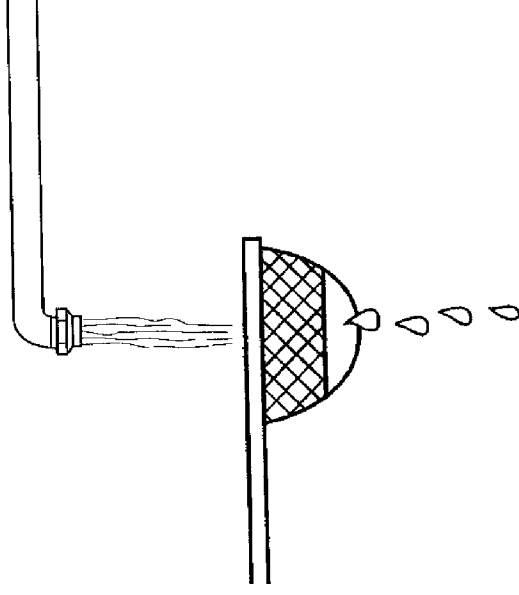
Inherent Risk and Residual Risk

- Inherent risk is the risk that exists in an environment without the benefit of internal controls. In other words, what is the risk that an event could materially impact the ability of TPB to achieve its overall objectives if management did not have internal controls in place to manage the risk?
- Residual risk is the risk that exists after consideration of the internal controls management has in place to mitigate or transfer the inherent risk.

Pictorial Representation

INHERENT RISK

The risk that exists in an environment without the benefit of internal controls.



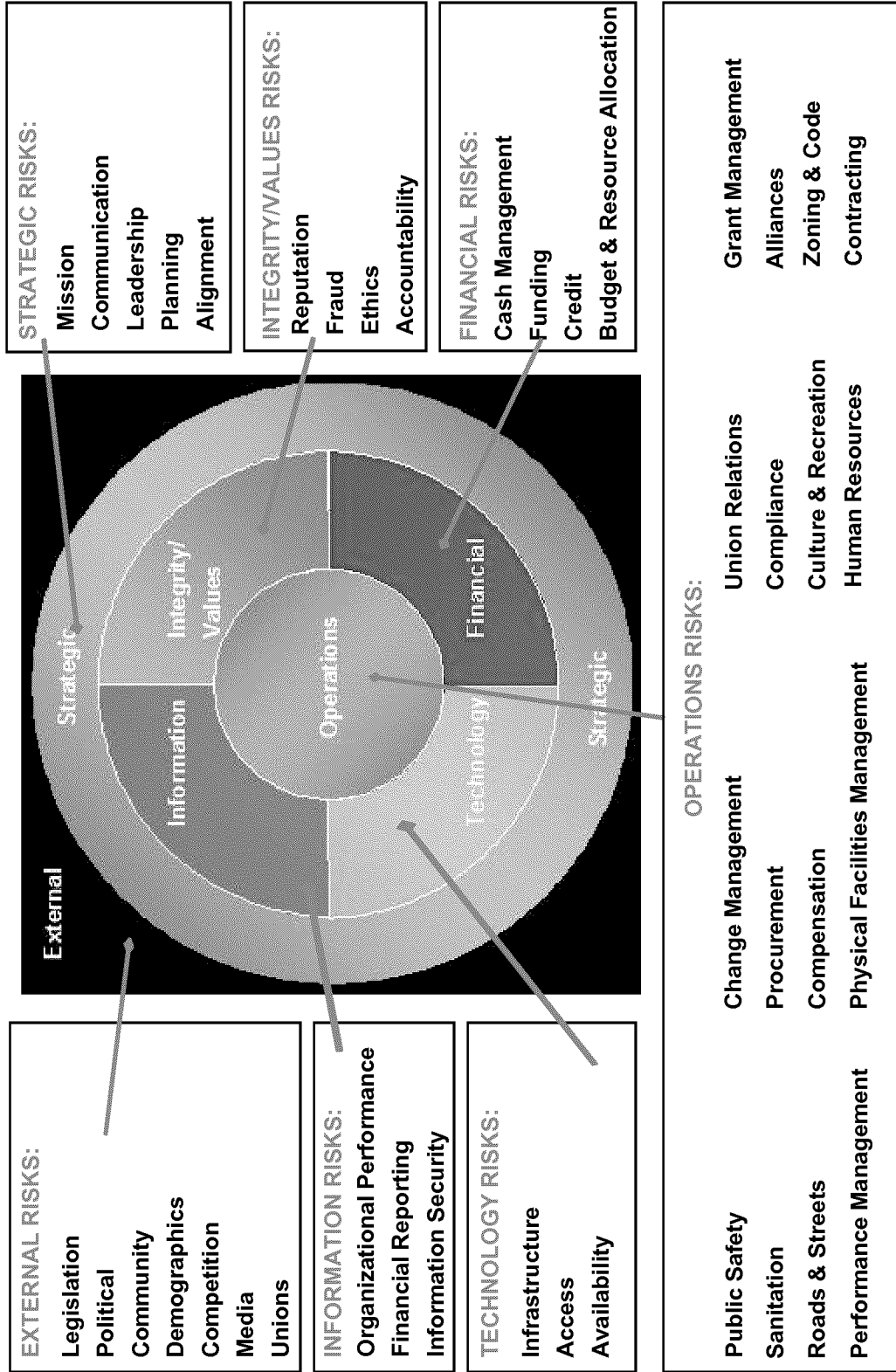
RESIDUAL RISK

The risk that exists after consideration of the controls or activities management has in place to mitigate or transfer the risk.

Risk Assessment

- The **inherent risk** to TPB mission and objectives was assessed using COSO's integrated framework. This methodology was used to assess if the inherent risk is high, moderate or low for auditable areas and to arrive at an overall risk assessment to facilitate development of the internal audit plan.
- We then gained an understanding, at a high level, of the processes and controls implemented to mitigate inherent risk for selected auditable areas. Finally, we made a high level judgment as to what management believes the residual risk to be for selected auditable areas.

TPB Risk Model



Risk Assessment

Significance

Significance is the potential impact that a risk event would have on TPB if the risk event were to occur.

Overall Significance	Monetary	Significant Risk Factors
High – Occurrence of risk would result in an operational or financial impact that seriously impairs TPB’s ability to achieve its objectives.	An impact of \$500,000 or more on funding or budget.	Mission, Reputation, Funding, Organizational Performance, Financial Reporting, Information Security, Credit, Political, Performance Management
Moderate – Occurrence of risk would have an operational or financial impact that would significantly affect, but not seriously impair TPB in its ability to achieve its objectives.	An impact of between \$100,000 and \$500,000 on funding or budget.	Communication, Infrastructure, Alignment, Ethics, Fraud, Budget & Resource Allocation, Funding, Availability, Alignment, Compensation, Procurement, Compliance, Legislation
Low – Occurrence of risk would have an operational or financial impact that would not significantly affect TPB in its ability to achieve its objectives.	Impact on budget is less than \$100,000 on funding or budget.	Accountability, Access, Cash Management

Risk Assessment

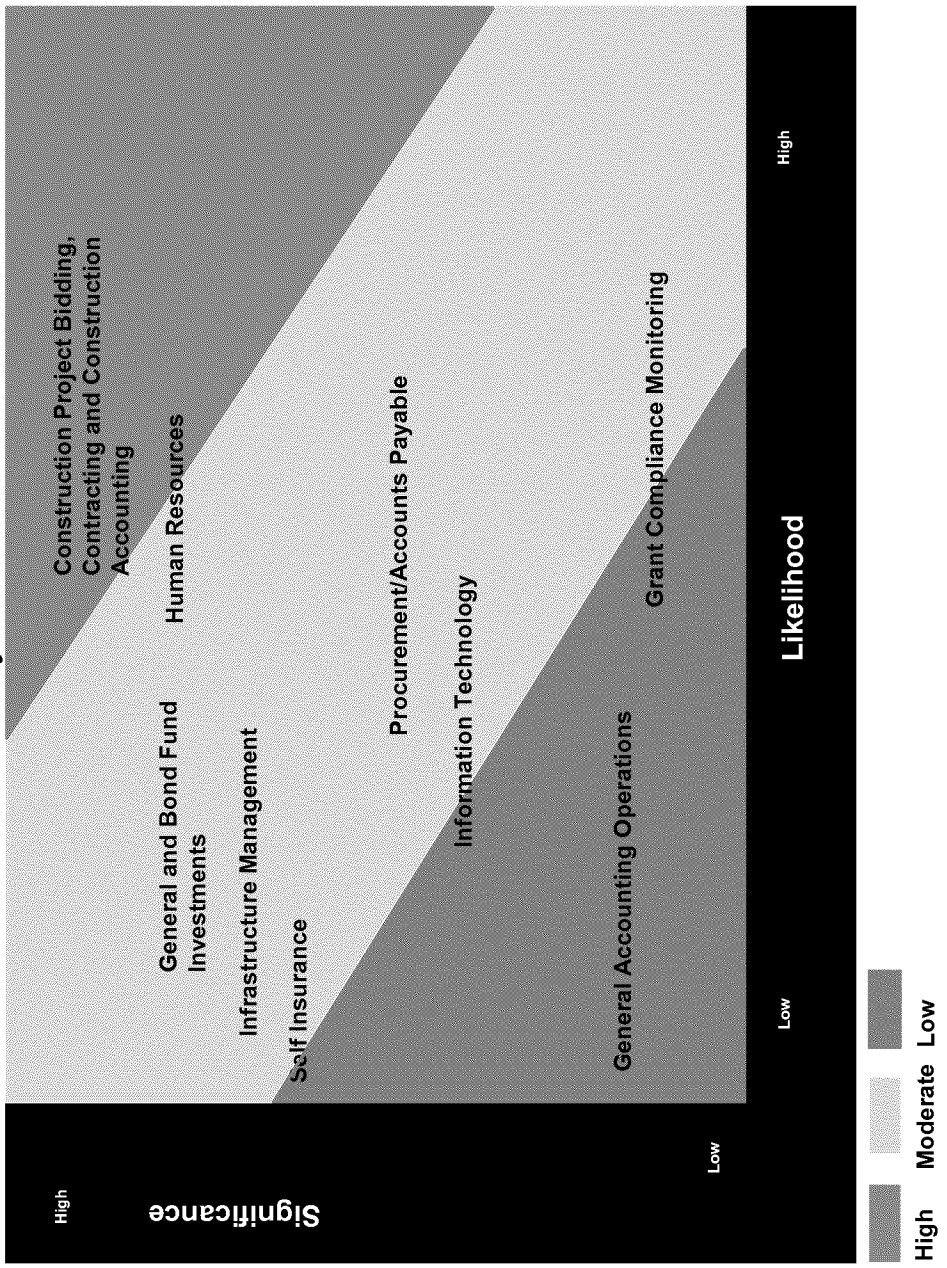
Likelihood

Likelihood is an assessment of how reasonable it is that a risk event could impact TPB, taking into account the external environment and other relevant factors.

- **High** – Occurrence of risk is either probable (over 80%) or there is a great possibility given understanding of the nature of the business risk.
- **Moderate** - Occurrence of risk is moderately possible (between 20% and 80%) given understanding of the nature of the business risk.
- **Low** – Occurrence of risk is unlikely (less than 20%) given understanding of the nature of the business risk.

Risk Profile (illustrative)

Key Risks



Results of Preliminary Risk Assessment

Inherent Risk Description

Construction Project Bidding, Contracting and Construction Accounting

Risk that erroneous recordkeeping results in inappropriate accounting, financial loss or exposure.

Risk that contractors or vendors are hired that are not qualified, increasing the likelihood of project failure, delay or cost overrun.

Risk that bid procedures are not properly followed, resulting in additional project cost or delay.

Risk that payments to contractors are not tied to deliverables.

Risk that failure to effectively administer the construction program, including change order evaluation and approval, leads to cost overruns or delays in opening critical physical locations or facilities.

Results of Preliminary Risk Assessment

Inherent Risk Description

General and Bond Fund Investments

Risk that Town investment policy may not meet statutory requirements and prudent investor rule.

Risk that recommendations by investment advisor may not be made in accordance with Town policy or allow for appropriate diversification and protection of principal.

Risk that investment portfolio may not comply with Town policy, other legal requirements or provide for appropriate diversification and protection of principal.

Risk that financial reporting of investments may not be in accordance with GASB statements.

Risk that fraudulent activities in the organization are not prevented or detected in a timely manner.

Risk that proper segregation and authorization is not maintained over transaction initiation and approval processes.

Results of Preliminary Risk Assessment

Inherent Risk Description
<u>Procurement/Accounts Payable</u>
Risk that adequate due diligence is not performed for major suppliers before hiring.
Risk that purchase initiation, approval and payment process is inefficient, increasing organizational cost.
Risk that a purchasing decision maker may not be independent and/or may have a conflict of interest and/or may not be performing their duties solely for the benefit of the organization.
Risk that vendor invoices are not properly authorized before payment is made.

Results of Preliminary Risk Assessment

Inherent Risk Description

Human Resources

Human resources practices do not effectively and efficiently allocate human capital.

Risk that compensation or benefit information produced by information systems is not accurate.

Risk that Board members and managers are not provided sufficient and/or timely compensation or benefit information in order to make informed decisions.

Risk that payroll and benefit practices do not conform to existing federal/state/town laws and ordinances.

Legal risks arising from managing employees and contractors.

Results of Preliminary Risk Assessment

Inherent Risk Description

Grant Compliance Monitoring

Risk that loss of funding, fines or other legal actions attributable to failure to adhere to specific requirements and instructions of each grant may occur.

Risk that management does not fully understand its responsibilities under a grant and does not effectively communicate those responsibilities to the staff.

Results of Preliminary Risk Assessment

Inherent Risk Description

General Accounting

Risk that failure to respond to new accounting rules and auditing standards leads to financial reporting deficiencies.

Risk that fraudulent activities in the organization are not prevented or detected in a timely manner.

Risk that proper segregation and authorization is not maintained over transaction initiation and approval processes.

Results of Preliminary Risk Assessment

Inherent Risk Description
<u>Information Technology</u>
Risk that information security can be breached.
Risk that SAS 70 reports are not obtained from all significant vendors whose services provide valuation, recordkeeping and accounting services, self insurance claims processing, program hosting, etc. to determine if vendors maintain effective controls for the processing and safeguarding of data.
Risk that proper segregation and authorization is not maintained over automated processes.

Results of Preliminary Risk Assessment

Inherent Risk Description

Infrastructure Management

Risk that management of depreciating assets is not effectively managed, resulting in additional avoidable costs of maintenance and replacement.

Risk that remaining depreciable life is overstated, resulting in the overstatement of the value of property and equipment and understatement of replacement reserve requirements.

Risk that the method or calculations used to determine depreciation/amortization are inaccurate, resulting in the overstatement of property and equipment, and understatement of depreciation expense on the Town's financial statements.

AUDIT PLAN

Considering the Risk Assessment results and discussions with TPB management regarding areas of concern for audit focus, Crowe Horwath has developed the following proposed internal audit plan for FY 2010:

Segments	Segment Description	Time Frame	Cost
Segment 1	Construction Project Bidding, Contracting and Construction Accounting	Q2, Q3 & Q4 Fiscal 2010	\$44,000
		2011 To Be Determined	Cost To Be Determined
Segment 2	General and Bond Fund Investments	Q2 & Q3 Fiscal 2010	\$18,940

AUDIT PLAN

Segments	Segment Description	Time Frame	Cost
Segment 3	Procurement/Accounts Payable	Q2 & Q3 Fiscal 2010	\$14,660
Segment 4	Human Resources	Q2 & Q3 Fiscal 2010	\$27,800
Segment 5	Grant Compliance Monitoring	Q4 Fiscal 2010	\$5,310
Segment 6	Information Systems General Controls and Information Security	2011 To Be Determined	Cost To Be Determined
Segment 7	Infrastructure Management	2011 To Be Determined	Cost To Be Determined

TOWN OF PALM BEACH

Town Council Meeting on: March 9, 2010

Section of Agenda

Committee Reports

Agenda Title

Report of the Ordinances, Rules and Standards Committee Meeting held on February 26, 2010

Presenter

Joanna Cunningham, Town Clerk

Supporting Documents

- Report of the Ordinances Rules and Standards Committee Meeting held on February 26, 2010

1 **REPORT OF THE ORDINANCES, RULES AND STANDARDS COMMITTEE**
2 **MEETING**
3 **HELD ON FRIDAY, FEBRUARY 26, 2010**

4
5
6
7
8 I. CALL TO ORDER AND ROLL CALL

9
10 The Ordinance, Rules and Standards Committee meeting was called to order on Friday, February
11 26, 2010 at 9:00a.m. in the Emergency Operations Center, 355 S. County Road, Palm Beach. On
12 roll call, Chair Diamond and Committee Member Coniglio were present.

13
14 II. APPROVAL OF AGENDA

15 **The Agenda was approved as printed.**

16
17 III. PUBLIC COMMENT

18 There were none.

19
20 IV. REGULAR AGENDA

21 A. Old Business

22 1. Review of Plan for Adoption of Approved Code Changes.

23 Deputy Town Manager Thomas Bradford described the method in which to present the
24 Ordinance changes to the Town Council. He informed the Committee at the First ORS meeting
25 that began the process, it was suggested that the best thing to do was one ordinance that
26 incorporated all of the changes. The Town Council had approved the recommended changes in
27 the reports of the first two meetings, they have started the processing of codifying all of the
28 changes that had been approved. Staff and Town Attorney Randolph concluded that it would be
29 overwhelming and a burden to do it that way. Deputy Town Manager Bradford proposed that
30 staff would like to proceed with codification on a bit-by-bit basis.

31 Committee Member Coniglio was in total agreement that there was a need for transparency and
the need for the public to understand exactly where they have come from and where they are
going, one of the reasons for the earlier decisions was a cost savings. She asked who was going
to bear the brunt of that cost. Deputy Town Manager Bradford responded that he did not know if
Town Attorney Randolph had had the time to make an estimate of how many ordinances that

1 may be changed. He stated that the cost would be the advertising for one ordinance versus a
2 number of ordinances that are changed.

3 Town Clerk Cunningham commented on the costs that in addition to advertising the second
4 readings, the codification costs are approximately \$4.00 per page. She noted that many other
5 municipalities adopt a revised code at one time. While at a recent Clerk's Conference, she had
6 negotiated a discounted price with Municode if the entire Code was updated at one time. She
7 also expressed concern that she did not have any funds allocated in her budget for this year to
8 and would have to go to the Town Council for a contingency budget item to pay for the piece
9 meal costs.

10
11 **Motion to change process made by Committee Member Coniglio to adopt the Code**
12 **Changes in piece meal was approved unanimously by the Committee.**
13

14 B. New Business

15 1. Chapter 42 - Environment

16 The Committee went through the Chapters page by page and reviewed the proposed code
17 changes. With the following exceptions, the Committee accepted staff changes:
18

- 19 • **Sec. 42-199 (a) & (b):** Planning, Zoning and Building Department staff recommended the
20 word "major" before the word "construction" be stricken from these referenced Code sections
21 with the intention being that construction exceeding adopted noise levels during the months
22 of December, January, February, March and April is prohibited regardless of whether it is
23 major, minor or costing more or less than any dollar figure. The Town Attorney was hesitant
24 about this and wanted time to confer with staff. ORS requested that this come back before
25 them at their next meeting under Old Business. The PZB staff member that recommended
26 this change, or Planning and Zoning Director John Page's designee, and Lead Code
27 Enforcement Officer Rob Walton would meet with the Town Attorney as soon as possible to
28 discuss.
- 29 • **Sec. 42-202:** Planning, Zoning and Building Department staff recommended language be
30 added that required machinery in violation of Sec. 42-228 (noise) to be enclosed. The Town
31 Attorney had reservations and saw merit in staff having discretion and wanted time to discuss
32 this with staff. ORS requested that this come back before them at their next meeting under
33 Old Business. The PZB staff member that recommended this change, or Planning and Zoning
34 Director John Page's designee, and Lead Code Enforcement Officer Rob Walton would meet
35 with the Town Attorney as soon as possible to discuss.
- 36 • **Sec. 42-228:** Lead Code Enforcement Officer Rob Walton, on behalf of the Police
37 Department, asked for time to revisit the section and mentioned that the problem was the
38 reasonableness of the maximum decibel requirements. This was a sensitive subject and he
39 would meet with staff as soon as possible to discuss.

- **Sec. 42-321:** Town Attorney Randolph distributed a draft letter that he had written in response to a letter received from Mr. Hoffman. He has drafted a proposed new Ordinance and will present it back to the ORS Committee for consideration at the next meeting.

2. Chapter 46 - Fire Prevention

Tim Pompos, Fire Marshall, stated that the proposed changes are stronger and provided clearer definitions. They also now referenced the State Laws. The Committee accepted the staff recommendations.

3. Chapter 50 - Floods

With the following exceptions, the Committee accepted staff changes:

- **Sec. 50-34:** Planning, Zoning and Building Department staff recommended that verbiage be added to align with the "Florida Model Ordinance." Planning, Zoning and Building Department staff needed to provide the Town Attorney with a copy of the referenced model ordinance and point out specifically what verbiage therein they had in mind for inclusion.
- **Sec. 50-35:** Deletion of the last sentence of this Planning, Zoning and Building Department staff recommendation which would have eliminated a definition for manufactured home was approved. The manufactured home definition shall remain.
- **Sec. 50-40:** The Police Department recommendation to delete this section was not approved.

4. Chapter 54 - Historic Preservation

Town attorney Randolph suggested adding a definition by neglect created since there was not one in the code. The Committee accepted staff recommendations.

5. Chapter 58 - Law Enforcement

No changes were proposed by staff for this chapter.

6. Chapter 62 - Marine Structures

The Committee continued to go through the Chapters page by page and reviewed the proposed code changes. With the following exceptions, the Committee accepted staff changes:

- **Sec. 62-39:** Director of Public Works Paul Brazil requested changes at subsection (b)(6) and subsection (c)(10) be such that reference to the "town council" be deleted and substituted with "town engineer". In addition, Mr. Brazil asked that for each subsection the submittals to be reviewed by the town engineer be prepared by a State of Florida registered professional engineer.
- **Sec. 62-71(a)(b)(c):** Public Works staff should commence pinpointing an existing plat, sketch or map to be used in the establishment of new bulkhead lines along the Atlantic shoreline and the Lake Worth Lagoon shoreline.
- **Sec. 62-77:** In addition to approving the recommended change submitted by Public Works staff to have bulkhead and seawall recertification every 10 years, the Committee approved implementation of a permit fee to cover the cost of administering this program, including any tracking system employed to monitor timely property owner compliance with the requirements. The Committee also recommended a recording requirement so that future buyer notification of the certification can technically occur by being in the public property records. *(This may need to apply to Town owned bulkheads and seawalls to be fair and to avoid future criticism should a Town owned one fail)*

The Committee requested that this come back before them at their next meeting under Old Business. Director of Public Works Paul Brazil, or his designee, should meet or conference with the Town Attorney as soon as possible. Committee Member Coniglio expressed concern regarding the costs of the project and the burden on the residents if such a requirement were needed.

V. ANY OTHER MATTERS

Deputy Town Manager Bradford announced that once they have a meeting date and time, he would notify the Committee Members.

VI. ADJOURNMENT

There being no further business, the Ordinance, Rules and Standards Committee Meeting of Friday, February 26, 2010, was adjourned at 10:38 a.m.

APPROVED:

William J. Diamond
Chairman

- 1
- 2
- 3 Backup Documents ORS 2-26-10

TOWN OF PALM BEACH

Town Council Meeting on: March 9, 2010

Section of Agenda

Regular Agenda - New Business

Agenda Title

Amendments the Town's Investment Policy

Ordinance No. 7-10

Resolution No. 33-10

Presenter

Jane Struder, Director of Finance

Supporting Documents

- Memorandum Dated March 3, 2010, from Jane Struder, Finance Director
- Memorandum Dated March 4 2010, from Steven Alexander, PFM Asset Management
- Resolution No. 33-10
- Investment Policy
- Memorandum Dated February 23, 2010, from John C. Randolph, Town Attorney
- Ordinance No. 7-10

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 9, 2010

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: Jane Struder, Finance Director

Re: Modifications to the Investment Policy for the Town's Surplus Funds
Ordinance No. 7-10
Resolution No. 33-10

Date: March 3, 2010

STAFF RECOMMENDATION

Staff recommends that the Town Council approve Resolution No. 33-10 and Ordinance No. 7-10. The Ordinance rescinds the section of the code that contains the investment policy. Resolution No. 33-10 adopts the new investment policy.

BOARD OR COMMISSION RECOMMENDATION

The Investment Advisory Committee recommends that the Town Council approve the revisions to the investment policy for the Town's surplus funds.

GENERAL INFORMATION

The PFM Group was hired by the Town in 2009 to manage a portion of the Town's surplus funds. The PFM Group has been working with the Investment Advisory Committee and Town staff to develop a new investment policy. Included in your backup is a memorandum from PFM describing the changes they are recommending to the policy.

Representatives from PFM will be in attendance at the March 9th meeting to answer any questions you may have.

TOWN ATTORNEY REVIEW

The investment policy has been reviewed by the Town Attorney for legal form and sufficiency. The Town Attorney prepared Ordinance No. 7-10 and Resolution No. 33-10.

jls



The PFM Group

Public Financial Management, Inc.
PFM Asset Management LLC
PFM Advisors

Lincoln Plaza
Suite 1170
300 S. Orange Avenue
Orlando, FL
32801-3470

407 648-2208
407-648-1323 fax
www.pfm.com

March 4, 2010

Memorandum

To: Jane Struder, Finance Director
Town of Palm Beach

From: Steven Alexander, Managing Director
PFM Asset Management LLC

Re: Investment Policy – Recommended Changes

Please find enclosed the Town's Investment Policy with recommended edits and additional language to ensure the prudent management of public funds.

Section I. PURPOSE: added

- This Policy is designed to ensure the prudent management of public funds, the availability of operating and capital funds when needed, and an investment return competitive with comparable funds and financial market indices.

Section II. SCOPE: revised

- In accordance with Section 218.415, Florida Statutes, this Policy applies to all cash and investments held or controlled by the Town and shall be identified as "general operating funds" of the Town with the exception of the Town's Pension Funds and funds related to the issuance of debt where there are other existing policies or indentures in effect for such funds. Additionally, any future revenues, which have statutory investment requirements conflicting with this Policy and funds held by state agencies (e.g., Department of Revenue), are not subject to the provisions of this Policy.

Section IV. STANDARDS OF CARE: separated into two sections

- Section IV. DELEGATION OF AUTHORITY - Details the Finance Director's responsibilities for the administration of the investment program and shall maintain an Investment Procedures and Internal Controls Manual based on this Policy.
- Section V. STANDARDS OF PRUDENCE - Added the Prudent Expert rule "any person or firm hired or retained to invest, monitor, or advise concerning the Town's assets shall be held to the higher standard of "Prudent Expert"."



Section V. SAFEKEEPING AND CUSTODY – divided up into four sections

▪ XI. COMPETITIVE SELECTION OF INVESTMENT INSTRUMENTS

Added requirement of a minimum of three (3) **Qualified Institutions and/or Primary Dealers must be contacted and asked to provide bids/offers on securities in questions.** Bids will be held in confidence until the bid deemed to best meet the investment objectives is determined and selected.

▪ XV. REPORTING

The Finance Director, management designee and/or Investment Advisor shall provide the Town Manager with a “Quarterly Investment Report” that summarizes but not limited to the following:

- A. Recent market conditions, economic developments and anticipated investment conditions.
- B. The investment strategies employed in the most recent quarter.
- C. A description of all securities held in investment portfolios at month-end.
- D. The total rate of return for the quarter and year-to-date versus appropriate benchmarks.
- E. Any areas of the Policy concern warranting possible revisions to current or planned investment strategies. The market values presented in these reports will be consistent with accounting guidelines in GASB Statement 31.

On an annual basis, the Town Manager designee shall submit to the Town Council a written report on all invested funds. The annual report shall provide all, but not limited to, the following: a complete list of all invested funds, name or type of security in which the funds are invested, the amount invested, the maturity date, earned income, the book value, the market value, the yield on each investment.

The annual report will show performance on both a book value and total rate of return basis and will compare the results to the above-stated performance benchmarks. All investments shall be reported at fair value per GASB Statement 31. Investment reports shall be available to the public.

▪ XVI. THIRD-PARTY CUSTODIAL AGREEMENTS

Securities, with the exception of certificates of deposits, shall be held with a third party custodian; and all securities purchase by, and all collateral obtained by the Town should be properly designated as an asset of the Town. The securities must be held in an account separate and apart from the assets of the financial institution. A third party custodian is defined as any bank depository chartered by the Federal Government, the State of Florida, or any other state or territory of the United States which has a branch or principal place of



business in the State of Florida, or by a national association organized and existing under the laws of the United States which is authorized to accept and execute trusts and which is doing business in the State of Florida. Certificates of deposits will be placed in the provider's safekeeping department for the term of the deposit.

The custodian shall accept transaction instructions only from those persons who have been duly authorized by the Town Manager and which authorization has been provided, in writing, to the custodian. No withdrawal of securities, in whole or in part, shall be made from safekeeping, shall be permitted unless by such a duly authorized person.

The custodian shall provide the Finance Director or management designee with safekeeping statements that provide detail information on the securities held by the custodian. On a monthly basis, the custodian will also provide reports that list all securities held for the Town, the book value of holdings and the market value as of month-end.

Security transactions between a broker/dealer and the custodian involving the purchase or sale of securities by transfer of money or securities must be made on a "delivery vs. payment" basis, if applicable, to ensure that the custodian will have the security or money, as appropriate, in hand at the conclusion of the transaction. Securities held as collateral shall be held free and clear of any liens.

Section VI. AUTHORIZED INVESTMENTS is now Section XII. AUTHORIZED INVESTMENTS AND PORTFOLIO COMPOSITION

- Added sector allocation limits and individual issuers limits to permitted investments.
- Added maximum maturity limits to permitted investment sectors
- Added due diligence requirements for money market funds
- Added Repurchase Agreements
- Added Corporate Obligations of the FDIC's Temporary Liquidity Program
- Added State and/or Local Government Taxable and/or Tax-Exempt Debt
- Added Intergovernmental Investment Pool
- SBA LGIP is permitted under Section L. Intergovernmental Investment Pool and is held to the allocation limit of 25% of the invested portfolio. The SBA is required to maintain an "AAA" rating from Standard & Poor's and due diligence is required.

Section VII. INVESTMENT PARAMETERS is now Section X. MATURITY AND LIQUIDITY REQUIREMENTS

- Operating Funds
To the extent possible, an attempt will be made to match investment maturities with known cash needs and anticipated cash flow requirements. Investments of current operating funds shall have maturities of no longer than twelve (12) months.



- Core Funds

Investments of reserves, project funds, debt proceeds and other non-operating funds ("core funds") shall have a term appropriate to the need for funds and in accordance with debt covenants, but in no event shall exceed five (5) years and the average duration of the funds as a whole may not exceed three (3) years.

VIII. PERFORMANCE BENCHMARK is now XIV. PERFORMANCE MEASUREMENTS

- In order to assist in the evaluation of the portfolios' performance, the Town will use performance benchmarks for short-term and long-term portfolios. The use of benchmarks will allow the Town to measure its returns against other investors in the same markets.

- A. The short-term investment portfolio shall be evaluated in comparison with the weighted average return (net book value rate of return) of the Standard & Poor's Local Government Investment Pool All 30 Day rate (LGIP30D). The Standard & Poor's LGIP30D represents Government Investment Pools that maintain a stable net asset value of \$1 per share with an average maturity of 30 days and is rated in Standard & Poor's two highest money market fund rating categories: "AAAm" and "AAm."

- B. Investment performance of funds designated as core funds and other non-operating funds that have a longer-term investment horizon will be compared to an index comprised of U. S. Treasury or Government securities. The appropriate index will have a duration and asset mix that approximates the portfolios and will be utilized as a benchmark to be compared to the portfolios' total rate of return. Investments of bond reserves, construction funds, and other non-operating funds ("core funds") shall have a term appropriate to the need for funds and in accordance with debt covenants, but in no event shall exceed five (5) years.

Section IX AUTHORIZED FINANCIAL INSTITUTIONS AND DEALERS: added

- The Finance Director, management designee and/or the Investment Advisors shall maintain a list of financial institutions and broker/dealers that are approved for investment purposes and only firms meeting the following requirements will be eligible to serve as Qualified Institutions:

- 1) regional dealers that qualify under Securities and Exchange Commission Rule 15C3-1 (uniform net capital rule);
- 2) Capital of no less than \$10,000,000;
- 3) registered as a dealer under the Securities Exchange Act of 1934;
- 4) member of the National Association of Dealers (NASD);
- 5) registered to sell securities in Florida; and



- 6) the firm and assigned broker have been engaged in the business of effecting transactions in U.S. government and agency obligations for at least five (5) consecutive years.

Section X PROHIBITIONS is now Section XIII. DERIVATIVES AND REVERSE REPURCHASED AGREEMENTS

Added Section VI. ETHICS AND CONFLICTS OF INTEREST

- Employees involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions. Also, employees involved in the investment process shall disclose to the Investment Committee any material financial interests in financial institutions that conduct business with the Town, and they shall further disclose any material personal financial/investment positions that could be related to the performance of the Town's investment program.

Added Section XVII. INVESTMENT COMMITTEE

- The Town has established an Investment Committee by Ordinance number 4-04. The ordinance provides for the appointments, terms, qualifications, functions, regulations and procedures regarding the activities of the committee.

Added Section XVIII. INVESTMENT POLICY ADOPTION

- The Investment Policy shall be adopted by Town resolution. The Finance Director, Assistant Finance Director, and the Investment Committee shall review the Policy annually and submit recommendations to the Town Manager for review and approval. If a change in the Policy is recommended for approval by the Town Manager, the Finance Director will prepare the necessary report to Council.

Added Attachment A. Glossary of Cash and Investment Management Terms

RESOLUTION NO. 33-10

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, ADOPTING A NEW INVESTMENT POLICY FOR THE TOWN; RESCINDING RESOLUTION NO. 23-01, AS AMENDED; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on February 13, 2001, the Town adopted Resolution No. 23-01, adopting an Investment Policy for the Town; and

WHEREAS, this Investment Policy was subsequently amended on April 8, 2003, and on May 13, 2008; and

WHEREAS, upon review it has been determined that the Investment Policy should now be amended in its entirety in the manner and form attached hereto.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, AS FOLLOWS:

Section 1. This Resolution is hereby adopted to include the Town of Palm Beach Investment Policy as Exhibit "A" attached and made a part hereto.

Section 2. Resolution No. 23-01, and any amendments thereto, is hereby rescinded.

Section 3. This Resolution shall become effective immediately upon passage by the Town Council.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 9th day of March, 2010.

Jack McDonald, Mayor

David A. Rosow, Town Council President

Gail Coniglio, Town Council President Pro Tem

William J. Diamond, Town Council Member

ATTEST:

Richard M. Kleid, Town Council Member

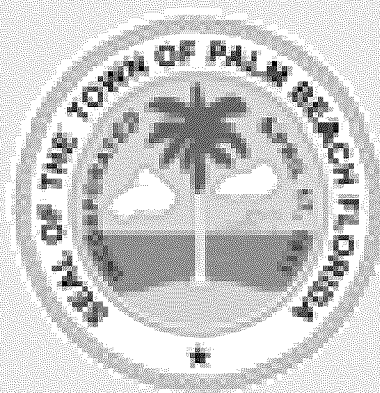
Joanna Cunningham, Town Clerk

Robert N. Wildrick, Town Council Member

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Investment Policy

Town of Palm Beach, Florida



Approved: DRAFT

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ATTACHMENT A: Glossary of Cash and Investment Management Terms

Investment Policy of the Town of Palm Beach

I. PURPOSE

The purpose of this Investment Policy (hereinafter “Policy”) is to set forth the investment objectives and parameters for the management of the funds of the Town of Palm Beach, (hereinafter “Town”). This Policy is designed to ensure the prudent management of public funds, the availability of operating and capital funds when needed, and an investment return competitive with comparable funds and financial market indices.

II. SCOPE

In accordance with Section 218.415, Florida Statutes, this Policy applies to all cash and investments held or controlled by the Town and shall be identified as “general operating funds” of the Town with the exception of the Town’s Pension Funds and funds related to the issuance of debt where there are other existing policies or indentures in effect for such funds. Additionally, any future revenues, which have statutory investment requirements conflicting with this Policy and funds held by state agencies (e.g., Department of Revenue), are not subject to the provisions of this Policy.

III. INVESTMENT OBJECTIVES

Safety of Principal

The foremost objective of this investment program is the safety of the principal of those funds within the portfolios. Investment transactions shall seek to keep capital losses at a minimum, whether they are from securities defaults or erosion of market value. To attain this objective, diversification is required in order that potential losses on individual securities do not exceed the income generated from the remainder of the portfolio.

From time to time, securities may be traded for other similar securities to improve yield, maturity or credit risk. For these transactions, a loss may be incurred for accounting purposes to achieve optimal investment return, provided any of the following occurs with respect to the replacement security:

- A. The yield has been increased, or
- B. The maturity has been reduced or lengthened, or
- C. The quality of the investment has been improved.

Maintenance of Liquidity

The portfolios shall be managed in such a manner that funds are available to meet reasonably anticipated cash flow requirements in an orderly manner. Periodical cash flow analyses will be completed in order to ensure that the portfolios are positioned to provide sufficient liquidity.

Return on Investment

Investment portfolios shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into account the investment risk constraints and liquidity needs. Return on investment is of least importance compared to the safety and liquidity objectives described above. The core of investments is limited to relatively low risk securities in anticipation of earning a fair return relative to the risk being assumed.

IV. DELEGATION OF AUTHORITY

Responsibility for management of the investment program is hereby delegated to the Finance Director, under the direction of the Town Manager. No investment activity shall take place except as provided under the terms of this Policy. The Town may appoint an outside investment manager as “Agent” for the Town’s cash reserves. Such Investment Manager must be registered under the Investment Advisors Act of 1940. The “Agent” for the Town shall have discretion over the purchase and sale of securities within this investment Policy.

Positions authorized as investment signatories are the Town Manager and the Finance Director. If either of these individuals is unavailable, the Assistant Town Manager may authorize investment transactions in the place and stead of the Town Manager and the Assistant Finance Director may authorize investment transactions in the place and stead of the Finance Director.

In all cases, every investment transaction requires two authorizing signatures. However, the Town Manager and Assistant Town Manager are not authorized to countersign each other’s signature. Nor are the Finance Director and Assistant Finance Director authorized to countersign each other’s signature.

The Finance Director shall maintain an Investment Procedures and Internal Controls Manual based on this Policy. The Finance Director shall be responsible for monitoring internal controls, administrative controls and to regulate the activities of the Town’s staff involved with the investment program.

V. STANDARDS OF PRUDENCE

The standard of prudence to be used by investment officials shall be the “Prudent Person” standard and shall be applied in the context of managing the overall investment program. Investment officers acting in accordance with written procedures and this investment Policy and exercising due diligence shall be relieved of personal responsibility for an individual security’s credit risk or market price changes, provided deviations from expectation are reported to the Town Council in a timely fashion and the liquidity and the sale of securities are carried out in accordance with the terms of this Policy. The “Prudent Person” rule states the following:

Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived from the investment.

While the standard of prudence to be used by investment officials who are officers or employees is the “Prudent Person” standard, any person or firm hired or retained to invest, monitor, or advise concerning these assets shall be held to the higher standard of “Prudent Expert”. The standard shall be that in investing and reinvesting moneys and in acquiring, retaining, managing, and disposing of investments of

these funds, the contractor shall exercise: the judgment, care, skill, prudence, and diligence under the circumstances then prevailing, which persons of prudence, discretion, and intelligence, acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims by diversifying the investments of the funds, so as to minimize the risk, considering the probable income as well as the probable safety of their capital.

VI. ETHICS AND CONFLICTS OF INTEREST

Employees involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions. Also, employees involved in the investment process shall disclose to the Investment Committee any material financial interests in financial institutions that conduct business with the Town, and they shall further disclose any material personal financial/investment positions that could be related to the performance of the Town's investment program.

VII. INTERNAL CONTROLS AND INVESTMENT PROCEDURES

The Finance Director shall establish a system of internal controls and operational procedures that are in writing and made a part of the Town's operational procedures. The internal controls should be designed to prevent losses of funds, which might arise from fraud, employee error, and misrepresentation by third parties, or imprudent actions by employees. The written procedures should include reference to safekeeping, repurchase agreements, separation of transaction authority from accounting and record keeping, wire transfer agreements, banking service contracts, collateral/depository agreements, and "delivery vs. payment" procedures. No person may engage in an investment transaction except as authorized under the terms of this Policy. These procedures are intended to reduce the relatively low risk that material losses may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

Independent auditors as a normal part of the annual financial audit to the Town shall conduct a review of the system of internal controls to ensure compliance with policies and procedures.

VIII. CONTINUING EDUCATION

The Finance Director and Assistant Finance Director and/or appropriate staff shall annually complete 8 hours of continuing education in subjects or courses of study related to investment practices and products.

IX. AUTHORIZED INVESTMENT INSTITUTIONS AND DEALERS

Authorized Town staff and Investment Advisors shall only purchase securities from financial institutions, which are Qualified Institutions by the Town or institutions designated as "Primary Securities Dealers" by the Federal Reserve Bank of New York. Authorized Town staff and Investment Advisors shall only enter into repurchase agreements with financial institutions that are Qualified Institutions and Primary Securities Dealers as designated by the Federal Reserve Bank of New York. The Finance Director, management designee and/or the Investment Advisors shall maintain a list of financial institutions and broker/dealers that are approved for investment purposes and only firms meeting the following requirements will be eligible to serve as Qualified Institutions:

- 1) regional dealers that qualify under Securities and Exchange Commission Rule 15C3-1 (uniform net capital rule);
- 2) Capital of no less than \$10,000,000;
- 3) registered as a dealer under the Securities Exchange Act of 1934;
- 4) member of the National Association of Dealers (NASD);
- 5) registered to sell securities in Florida; and
- 6) the firm and assigned broker have been engaged in the business of effecting transactions in U.S. government and agency obligations for at least five (5) consecutive years.

All brokers, dealers and other financial institutions deemed to be Qualified Institutions shall be provided with current copies of the Town's Investment Policy. A current audited financial statement is required to be on file for each financial institution and broker/dealer with which the Town transacts business.

X. MATURITY AND LIQUIDITY REQUIREMENTS

Operating Funds

To the extent possible, an attempt will be made to match investment maturities with known cash needs and anticipated cash flow requirements. Investments of current operating funds shall have maturities of no longer than twelve (12) months.

Core Funds

Investments of reserves, project funds, debt proceeds and other non-operating funds ("core funds") shall have a term appropriate to the need for funds and in accordance with debt covenants, but in no event shall exceed five (5) years and the average duration of the funds as a whole may not exceed three (3) years.

XI. COMPETITIVE SELECTION OF INVESTMENT INSTRUMENTS

After the Finance Director, management designee or the Investment Advisor has determined the approximate maturity date based on cash flow needs and market conditions and has analyzed and selected one or more optimal types of investments, a minimum of three (3) Qualified Institutions and/or Primary Dealers must be contacted and asked to provide bids/offers on securities in questions. Bids will be held in confidence until the bid deemed to best meet the investment objectives is determined and selected.

However, if obtaining bids/offers are not feasible and appropriate, securities may be purchased utilizing the comparison to current market price method on an exception basis. Acceptable current market price providers include, but are not limited to:

- A. Telerate Information System
- B. Bloomberg Information Systems
- C. Wall Street Journal or a comparable nationally recognized financial publication providing daily market pricing
- D. Daily market pricing provided by the Town's custodian or their correspondent institutions

The Finance Director or the Investment Advisor shall utilize the competitive bid process to select the securities to be purchased or sold. Selection by comparison to a current market price, as indicated above, shall only be utilized when, in judgment of the Finance Director or the Investment Advisor, competitive bidding would inhibit the selection process.

Examples the Town of when this method may be used include:

- A. When time constraints due to unusual circumstances preclude the use of the competitive bidding process
- B. When no active market exists for the issue being traded due to the age or depth of the issue
- C. When a security is unique to a single dealer, for example, a private placement
- D. When the transaction involves new issues or issues in the “when issued” market

Overnight sweep investments or repurchase agreements will not be bid, but may be placed with the Town’s depository bank relating to the demand account for which the sweep investments or repurchase agreement was purchased.

XII. AUTHORIZED INVESTMENTS AND PORTFOLIO COMPOSITION

Investments should be made subject to the cash flow needs and such cash flows are subject to revisions as market conditions and the Town’s needs change. However, when the invested funds are needed in whole or in part for the purpose originally intended or for more optimal investments, the Finance Director or management designee may sell the investment at the then-prevailing market price and place the proceeds into the proper account at the Town’s custodian.

The following are the investment requirements and allocation limits on security types, issuers, and maturities as established by the Town. The Finance Director or management designee shall have the option to further restrict investment percentages from time to time based on market conditions, risk and diversification investment strategies. The percentage allocations requirements for investment types and issuers are calculated based on the original cost of each investment. Investments not listed in this Policy are prohibited.

The allocation limits and security types do not apply to the investment of debt proceeds. These investments shall be governed by the debt covenant included in the debt instrument.

A. United States Government Securities

1. Purchase Authorization

Authorized Staff may invest in negotiable direct obligations, or obligations the principal and interest of which are unconditionally guaranteed by the United States Government. Such securities will include, but not be limited to the following:

Cash Management Bills
Treasury Securities – State and Local Government Series (SLGS)

Treasury Bills
Treasury Notes
Treasury Bonds
Treasury Strips

2. Portfolio Composition

A maximum of 100% of available funds may be invested in the United States Government Securities.

3. Maturity Limitations

The length to maturity of any direct investment in the United States Government Securities is five (5) years from the date of purchase. Maturities longer than five (5) years require the Town's approval.

B. United States Government Agencies (full faith and credit of the United States Government)

1. Purchase Authorization

Authorized Staff may invest in bonds, debentures or notes issued or guaranteed by the United States Government agencies, provided such obligations are backed by the full faith and credit of the United States Government. Such securities will include, but not be limited to the following:

Government National Mortgage Association (GNMA)
United States Export – Import Bank
 Direct obligations or fully guaranteed certificates of beneficial ownership
Farmer Home Administration
 Certificates of beneficial ownership
Federal Financing Bank
 Discount notes, notes and bonds
Federal Housing Administration Debentures
General Services Administration
New Communities Debentures
 United States Government guaranteed debentures
United States Public Housing Notes and Bonds
 United States Government guaranteed public housing notes and bonds
United States Department of Housing and Urban Development
 Project notes and local authority bonds

2. Portfolio Composition

A maximum of 50% of available funds may be invested in United States Government agencies.

3. Limits on Individual Issuers

A maximum of 25% of available funds may be invested in individual United States Government agencies.

4. Maturity Limitations

The length to maturity for an investment in any United States Government agency security is five (5) years from the date of purchase.

C. Federal Instrumentalities (United States Government sponsored agencies which are non-full faith and credit).

1. Purchase Authorization

Authorized Staff may invest in bonds, debentures or notes issued or guaranteed by United States Government sponsored agencies (Federal Instrumentalities which are non-full faith and credit agencies) limited to the following:

Federal Farm Credit Bank (FFCB)
Federal Home Loan Bank or its District banks (FHLB)
Federal National Mortgage Association (FNMA)
Federal Home Loan Mortgage Corporation (Freddie-Macs) including Federal Home Loan Mortgage Corporation participation certificates

2. Portfolio Composition

A maximum of 80% of available funds may be invested in Federal Instrumentalities.

3. Limits on Individual Issuers

A maximum of 30% of available funds may be invested in any one issuer.

4. Maturity Limitations

The length to maturity for an investment in any Federal Instrumentality is five (5) years from the date of purchase.

D. Non-Negotiable Interest Bearing Time Certificates of Deposit

1. Purchase Authorization

Authorized Staff may invest in non-negotiable interest bearing time certificates of deposit or savings accounts in banks organized under the laws of this state and/or in national banks organized under the laws of the United States and doing business and situated in this state, provided that any such deposits are secured by the Florida Security for Public Deposits Act, Chapter 280, Florida Statutes and provided that the bank is not listed with any recognized credit watch information service.

2. Portfolio Composition

A maximum of 50% of available funds may be invested in non-negotiable interest bearing time certificates of deposit or savings accounts.

3. Limits on Individual Issuers

A maximum of 25% of available funds may be deposited with any one issuer.

4. Maturity Limitations

The maximum maturity on any certificate shall be no greater than one (1) year from the date of purchase.

E. Repurchase Agreements

1. Purchase Authorization

a. Authorized Staff may invest in repurchase agreements comprised of only those investments based on the requirements set forth by the Town's Master Repurchase Agreement. All firms with whom the Town enters into repurchase agreements will have in place an executed Master Repurchase Agreement with the Town.

b. A third party custodian shall hold collateral for all repurchase agreements with a term longer than one (1) business day.

c. Securities authorized for collateral are negotiable direct obligations of the United States Government and Federal Instrumentalities with maturities under five (5) years and must have a mark-to-market value at a minimum of 102 percent during the term of the repurchase agreement. Immaterial short-term deviations from 102 percent requirement are permissible only upon the approval of the Authorized Staff.

2. Portfolio Composition

A maximum of 50% of available funds may be invested in repurchase agreements with the exception of one (1) business day agreements and overnight sweep agreements.

3. Limits on Individual Issuers

A maximum of 25% of available funds may be invested with any one institution with the exception of one (1) business day agreements and overnight sweep agreements.

4. Maturity Limitations

The maximum length to maturity of any repurchase agreement is 60 days from the date of purchase.

F. Commercial Paper

1. Purchase Authorization

Authorized Staff may invest in commercial paper of any United States company that is rated, at the time of purchase, “Prime-1” by Moody’s and “A-1” by Standard & Poor’s (prime commercial paper).

2. Portfolio Composition

A maximum of 25% of available funds may be directly invested in prime commercial paper.

3. Limits on Individual Issuers

A maximum of 15% of available funds may be invested with any one issuer.

4. Maturity Limitations

The maximum length to maturity for prime commercial paper shall be 270 days from the date of purchase.

G. Corporate Notes

1. Purchase Authorization

The Treasurer may invest in corporate notes issued by corporations organized and operating within the United States or by depository institutions licensed by the United States that have a long term debt rating, at the time of purchase, at a minimum “Aa” by Moody’s and a minimum long term debt rating of “AA” by Standard & Poor’s.

2. Portfolio Composition

A maximum of 25% of available funds may be directly invested in corporate notes.

3. Limits on Individual Issuers

A maximum of 5% of available funds may be invested with any one issuer.

4. Maturity Limitations

The maximum length to maturity for corporate notes shall be 3 years from the date of purchase.

H. Corporate Obligations

1. Purchase Authorization

The Authorized Staff may invest in corporate obligations issued by financial institutions that participate in the FDIC’s Temporary Liquidity Guarantee Program and are fully

insured by the FDIC and are guaranteed by the full faith and credit of the United States Government.

2. Portfolio Composition

A maximum of 50% of available funds may be directly invested in corporate obligations.

3. Limits on Individual Issuers

A maximum of 25% of available funds may be invested with any one issuer.

4. Maturity Limitations

The maximum length to maturity for corporate obligations shall be 3 years from the date of purchase.

I. Bankers' Acceptances

1. Purchase Authorization

Authorized Staff may invest in bankers' acceptances which are issued by a domestic bank which has at the time of purchase, an unsecured, uninsured and unguaranteed obligation rating of at least "Prime-1" by Moody's or "A-1" by Standard & Poor's.

2. Portfolio Composition

A maximum of 35% of available funds may be directly invested in bankers' acceptances.

3. Limits on Individual Issuers

A maximum of 20% of available funds may be invested with any one issuer.

4. Maturity Limitations

The maximum length to maturity for bankers' acceptances shall be 180 days from the date of purchase.

J. State and/or Local Government Taxable and/or Tax-Exempt Debt

1. Purchase Authorization

Authorized Staff may invest in state and/or local government taxable and/or tax-exempt debt, general obligation and/or revenue bonds, rated at least "Aa" by Moody's or "AA" by Standard & Poor's for long-term debt, or rated at least "MIG-2" by Moody's or "SP-2" by Standard & Poor's for short-term debt.

2. Portfolio Composition

A maximum of 20% of available funds may be invested in taxable and tax-exempt debts.

3. Limits on Individual Issuers

A maximum of 20% of available funds may be invested with any one issuer.

4. Maturity Limitations

A maximum length to maturity for an investment in any state or local government debt security is three (3) years from the date of purchase.

K. Registered Investment Companies (Money Market Mutual Funds)

1. Investment Authorization

Authorized Staff may invest in shares in open-end and no-load money market funds provided such funds are registered under the Federal Investment Company Act of 1940 and operate in accordance with 17 C.F.R. § 270.2a-7, which stipulates that money market funds must have an average weighted maturity of 90 days or less. In addition, the share value of the money market funds must be equal to \$1.00.

2. Portfolio Composition

A maximum of 50% of available funds may be invested in money market funds.

3. Limits of Individual Issuers

A maximum of 25% of available funds may be invested with any one money market fund.

4. Rating Requirements

The money market funds shall be rated “AAAm” by Standard & Poor’s or the equivalent by another rating agency.

5. Due Diligence Requirements

A thorough review of any money market fund is required prior to investing, and on a continual basis. There shall be a questionnaire developed by the Finance Director that will contain a list of questions that covers the major aspects of any investment pool/fund.

L. Intergovernmental Investment Pool

1. Investment Authorization

Authorized Staff may invest in intergovernmental investment pools that are authorized pursuant to the Florida Interlocal Cooperation Act, as provided in s. 163.01, F.S.

2. Portfolio Composition

A maximum of 25% of available funds may be invested in intergovernmental investment pools.

3. Rating Requirements

The Intergovernmental Investment Pool shall be rated “AAA” by Standard & Poor’s or the equivalent by another rating agency.

4. Due Diligence Requirements

A thorough review of any investment pool/fund is required prior to investing, and on a continual basis. There shall be a questionnaire developed by the Finance Director that will contain a list of questions that covers the major aspects of any investment pool.

XIII. DERIVATIVES AND REVERSE REPURCHASE AGREEMENTS

Investment in any derivative products or the use of reverse repurchase agreements is prohibited.

A “derivative” is defined as a financial instrument the value of which depends on, or is derived from, the value of one or more underlying assets or indices or asset values.

XIV. PERFORMANCE MEASUREMENTS

In order to assist in the evaluation of the portfolios’ performance, the Town will use performance benchmarks for short-term and long-term portfolios. The use of benchmarks will allow the Town to measure its returns against other investors in the same markets.

- A. The short-term investment portfolio shall be evaluated in comparison with the weighted average return (net book value rate of return) of the Standard & Poor’s Local Government Investment Pool All 30 Day rate (LGIP30D). The Standard & Poor’s LGIP30D represents Government Investment Pools that maintain a stable net asset value of \$1 per share with an average maturity of 30 days and is rated in Standard & Poor’s two highest money market fund rating categories: “AAAm” and “AAm.”
- B. Investment performance of funds designated as core funds and other non-operating funds that have a longer-term investment horizon will be compared to an index comprised of U. S. Treasury or Government securities. The appropriate index will have a duration and asset mix that approximates the portfolios and will be utilized as a benchmark to be compared to the portfolios’ total rate of return. Investments of bond reserves, construction funds, and other non-operating funds (“core funds”) shall have a term appropriate to the need for funds and in accordance with debt covenants, but in no event shall exceed five (5) years.
- C. In order to calculate the overall return for the Town’s various investment portfolios, there will be a dollar weighted calculation for both the portfolio and the benchmark.

XV. REPORTING

On a monthly basis, the Finance Director shall generate reports for management purposes, and shall promptly submit such reports to the Town Manager. The report shall list securities in the portfolio by class or type, book value, income earned, and market value as of the report date. Current yield and total return for each pool and for the total of all reserves should be reported.

The Finance Director, management designee and/or Investment Advisor shall provide the Town Manager with a “Quarterly Investment Report” that summarizes but not limited to the following:

- A. Recent market conditions, economic developments and anticipated investment conditions.
- B. The investment strategies employed in the most recent quarter.
- C. A description of all securities held in investment portfolios at month-end.
- D. The total rate of return for the quarter and year-to-date versus appropriate benchmarks.
- E. Any areas of the Policy concern warranting possible revisions to current or planned investment strategies. The market values presented in these reports will be consistent with accounting guidelines in GASB Statement 31.

On an annual basis, the Town Manager designee shall submit to the Town Council a written report on all invested funds. The annual report shall provide all, but not limited to, the following: a complete list of all invested funds, name or type of security in which the funds are invested, the amount invested, the maturity date, earned income, the book value, the market value, the yield on each investment.

The annual report will show performance on both a book value and total rate of return basis and will compare the results to the above-stated performance benchmarks. All investments shall be reported at fair value per GASB Statement 31. Investment reports shall be available to the public.

XVI. THIRD-PARTY CUSTODIAL AGREEMENTS

Securities, with the exception of certificates of deposits, shall be held with a third party custodian; and all securities purchase by, and all collateral obtained by the Town should be properly designated as an asset of the Town. The securities must be held in an account separate and apart from the assets of the financial institution. A third party custodian is defined as any bank depository chartered by the Federal Government, the State of Florida, or any other state or territory of the United States which has a branch or principal place of business in the State of Florida, or by a national association organized and existing under the laws of the United States which is authorized to accept and execute trusts and which is doing business in the State of Florida. Certificates of deposits will be placed in the provider’s safekeeping department for the term of the deposit.

The custodian shall accept transaction instructions only from those persons who have been duly authorized by the Town Manager and which authorization has been provided, in writing, to the custodian. No withdrawal of securities, in whole or in part, shall be made from safekeeping, shall be permitted unless by such a duly authorized person.

The custodian shall provide the Finance Director or management designee with safekeeping statements that provide detail information on the securities held by the custodian.

On a monthly basis, the custodian will also provide reports that list all securities held for the Town, the book value of holdings and the market value as of month-end.

Security transactions between a broker/dealer and the custodian involving the purchase or sale of securities by transfer of money or securities must be made on a “delivery vs. payment” basis, if

applicable, to ensure that the custodian will have the security or money, as appropriate, in hand at the conclusion of the transaction. Securities held as collateral shall be held free and clear of any liens.

XVII. INVESTMENT COMMITTEE

The Town has established an Investment Committee by Ordinance number 4-04. The ordinance provides for the appointments, terms, qualifications, functions, regulations and procedures regarding the activities of the committee.

XVIII. INVESTMENT POLICY ADOPTION

The Investment Policy shall be adopted by Town resolution. The Finance Director, Assistant Finance Director, and the Investment Committee shall review the Policy annually and submit recommendations to the Town Manager for review and approval. If a change in the Policy is recommended for approval by the Town Manager, the Finance Director will prepare the necessary report to Council.

APPROVED AS TO LEGAL FORM AND SUFFICIENCY

TOWN ATTORNEY

Attachment A

Glossary of Cash and Investment Management Terms

Agency - A debt security issued by a federal or federally sponsored agency. Federal agencies are backed by the full faith and credit of the U.S. Government. Federally sponsored agencies (FSAs) are backed by each particular agency with a market perception that there is an implicit government guarantee. An example of federal agency is the Government National Mortgage Association (GNMA). An example of a FSA is the Federal National Mortgage Association (FNMA).

Asked - The price at which securities are offered

Average Life - The average length of time that an issue of serial bonds and/or term bonds with a mandatory sinking fund feature is expected to be outstanding.

Bankers' Acceptance (BA) - A draft, bill or exchange accepted by a bank or trust company. The accepting institution guarantees payment of the bill, as well as the issuer.

Basis Point - A unit of measurement used in the valuation of fixed-income securities equal to 1/100 of 1 percent of yield, e.g., "1/4" of 1 percent is equal to 25 basis points.

Bid - The indicated price at which a buyer is willing to purchase a security or commodity.

Book Value - The value at which a security is carried on the inventory lists or other financial records of an investor. The book value may differ significantly from the security's current value in the market.

Broker - A broker brings buyer and sellers together for a commission.

Certificate of Deposit (CD) - A time deposit with a specific maturity evidenced by a certificate. Large-denomination CDs are typically negotiable.

Collateralization - Process by which a borrower pledges securities, property, or other deposits for securing the repayment of a loan and/or security.

Commercial Paper - An unsecured short-term promissory note issued by corporations, with maturities ranging from 2 to 270 days.

Convexity - A measure of a bond's price sensitivity to changing interest rates. A high convexity indicates greater sensitivity of a bond's price to interest rate changes.

Current Yield (Current Return) - A yield calculation determined by dividing the annual interest received on a security by the current market price of that security.

Dealer - A dealer, as opposed to a broker, acts as a principal in all transactions, buying and selling for his own account.

Delivery Versus Payment (DVP) - A type of securities transaction in which the purchaser pays for the securities when they are delivered either to the purchaser or his/her custodian.

Attachment A

Glossary of Cash and Investment Management Terms

Derivatives - For hedging purposes, common derivatives are options, futures, swaps and swaptions. All Collateralized Mortgage Obligations (“CMOs”) are derivatives. (1) Financial instruments whose return profile is linked to, or derived from, the movement of one or more underlying index or security, and may include a leveraging factor, or (2) financial contracts based upon notional amounts whose value is derived from an underlying index or security (interest rates, foreign exchange rates, equities or commodities).

Derivative Security - Financial instrument created from, or whose value depends upon, one or more underlying assets or indexes of asset values.

Diversification - A process of investing assets among a range of security types by sector, maturity, and quality rating.

Duration - A measure of the timing of the cash flows, such as the interest payments and the principal repayment, to be received from a given fixed-income security. This calculation is based on three variables: term to maturity, coupon rate, and yield to maturity. The duration of a security is a useful indicator of its price volatility for given changes in interest rates.

Federal Home Loan Banks (FHLB) - Government sponsored wholesale banks (currently 12 regional banks) which lend funds and provide correspondent banking services to member commercial banks, thrift institutions, credit unions and insurance companies. The mission of the FHLBs is to liquefy the housing related assets of its members who must purchase stock in their district Bank.

Federal National Mortgage Association (FNMA) - FNMA, like GNMA, was chartered under the Federal National Mortgage Association Act in 1938. FNMA is a federal corporation working under the auspices of the Department of Housing and Urban Development (HUD). It is the largest single provider of residential mortgage funds in the United States. Fannie Mae, as the corporation is called, is a private stockholder-owned corporation. The corporation’s purchases include a variety of adjustable mortgages and second loans, in addition to fixed-rate mortgages. FNMA’s securities are also highly liquid and are widely accepted. FNMA assumes and guarantees that all security holders will receive timely payment of principal and interest.

Government National Mortgage Association (GNMA OR GINNIE MAE) - Securities influencing the volume of bank credit guaranteed by GNMA and issued by mortgage bankers, commercial banks, savings and loan associations, and other institutions. The security holder is protected by full faith and credit of the U. S. Government. Ginnie Mae securities are backed by the FHA, VA, or FMHM mortgages. The term “passthroughs” is often used to describe Ginnie Maes.

Government Securities - An obligation of the U.S. government, backed by the full faith and credit of the government. These securities are regarded as the highest quality of investment securities available in the U.S. securities market. See "Treasury Bills, Notes, Bonds, and SLGS."

Internal Controls - An internal control structure designed to ensure that the assets of the entity are protected from loss, theft, or misuse. The internal control structure is designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that 1) the cost of a control should not exceed the benefits likely to be derived and 2) the valuation of costs and benefits requires estimates and judgments by management. Internal controls should address the following points:

Attachment A
Glossary of Cash and Investment Management Terms

1. **Control of collusion** - Collusion is a situation where two or more employees are working in conjunction to defraud their employer.
2. **Separation of transaction authority from accounting and record keeping** - By separating the person who authorizes or performs the transaction from the people who record or otherwise account for the transaction, a separation of duties is achieved.
3. **Custodial safekeeping** - Securities purchased from any bank or dealer including appropriate collateral (as defined by state law) shall be placed with an independent third party for custodial safekeeping.
4. **Avoidance of physical delivery securities** - Book-entry securities are much easier to transfer and account for since actual delivery of a document never takes place. Delivered securities must be properly safeguarded against loss or destruction. The potential for fraud and loss increases with physically delivered securities.
5. **Clear delegation of authority to subordinate staff members** - Subordinate staff members must have a clear understanding of their authority and responsibilities to avoid improper actions. Clear delegation of authority also preserves the internal control structure that is contingent on the various staff positions and their respective responsibilities.
6. **Written confirmation of transactions for investments and wire transfers** - Due to the potential for error and improprieties arising from telephone and electronic transactions, all transactions should be supported by written communications and approved by the appropriate person. Written communications may be via fax if on letterhead and if the safekeeping institution has a list of authorized signatures.
7. **Development of a wire transfer agreement with the lead bank and third-party custodian** - The designated official should ensure that an agreement will be entered into and will address the following points: controls, security provisions, and responsibilities of each party making and receiving wire transfers.

Investment Company Act of 1940- Federal legislation that sets the standards by which investment companies, such as mutual funds, are regulated in the areas of advertising, promotion, performance reporting requirements, and securities valuations.

Liquidity - An asset that can be converted easily and quickly into cash.

Local Government Investment Pool (LGIP) - An investment by local governments in which their money is pooled as a method for managing local funds, (i.e., Florida State Board of Administration "SBA").

Long-Term Core Investment Program – Funds that are not needed within a one year period.

Mark-to-market - The process whereby the book value or collateral value of a security is adjusted to reflect its current market value.

Market Value - Current market price of a security.

Attachment A

Glossary of Cash and Investment Management Terms

Master Repurchase Agreement - A written contract covering all future transactions between parties to repurchase—reverse repurchase agreement that establishes each party's rights in the transactions. A master agreement will often specify, among other things, the right of the buyer-lender to liquidate the underlying securities in the event of default by the seller-borrower.

Maturity - The date on which payment of a financial obligation is due. The final stated maturity is the date on which the issuer must retire a bond and pay the face value to the bondholder. See "Weighted Average Maturity".

Money Market - The market in which short-term debt instruments (bills, commercial paper, bankers' acceptance, etc.) are issued and traded.

Money Market Mutual Fund - Mutual funds that invest solely in money market instruments (short-term debt instruments, such as Treasury bills, commercial paper, bankers' acceptances, repos and federal funds).

National Association of Securities Dealers (NASD) - A self-regulatory organization (SRO) of brokers and dealers in the over-the-counter securities business. Its regulatory mandate includes authority over firms that distribute mutual fund shares as well as other securities.

Net Asset Value - The market value of one share of an investment company, such as a mutual fund. This figure is calculated by totaling a fund's assets which includes securities, cash, and any accrued earnings, subtracting this from the fund's liabilities and dividing this total by the number of shares outstanding. This is calculated once a day based on the closing price for each security in the fund's portfolio. (See below.)

$$[(\text{Total assets}) - (\text{Liabilities})]/(\text{Number of shares outstanding})$$

Par - Face value or principal value of a bond, typically \$1,000 per bond.

Portfolio - Collection of securities held by an investor.

Principal - The face value or par value of a debt instrument. Also may refer to the amount of capital invested in a given security.

Qualified Public Depository - Per Florida Statute 280, means any bank, saving bank or savings association that:

- (a) Is organized and exists under the laws of the United States, the laws of this state or any other state or territory of the United States;
- (b) Has its principal place of business in this state or has a branch office in this state which is authorized under the laws of this state or of the United States to receive deposits in this state.
 - (c) Has deposit insurance under the provision of the Federal Deposit Insurance Act, as amended, 12 U.S.C. ss.1811 seq.
- (d) Meets all requirements of F.S. 280
- (e) Has been designated by the Chief Financial Officer of the State of Florida as a qualified public depository.

Attachment A

Glossary of Cash and Investment Management Terms

Rate of Return - For fixed income securities (bonds and preferred stock), current yield, that is, the coupon or contractual dividend rate divided by the purchase price. For common stock, dividend yield, which is the annual dividend divided by the purchase price.

Repurchase Agreement (repo or RP) - An agreement of one party to sell securities at a specified price to a second party and a simultaneous agreement of the first party to repurchase the securities at a specified price or at a specified later date.

Reverse Repurchase Agreement (Reverse Repo) - An agreement of one party to purchase securities at a specified price from a second party and a simultaneous agreement by the first party to resell the securities at a specified price to the second party on demand or at a specified date.

Safekeeping - Holding of assets (e.g., securities) by a financial institution.

Structured Notes - Notes issued by government sponsored enterprises (FHLB, FNMA, SLMA, etc.) and corporations which have imbedded options (e.g. call features, step-up coupons, floating rate coupons, derivative-based returns) into their debt structure. Their market performance is impacted by fluctuation of interest rates, the volatility of the imbedded options, and shifts in the shape of the yield curve.

Swap - Trading one asset for another.

Total Return - The sum of all investment income plus changes in the capital value of the portfolio. For mutual funds, return on an investment is composed of share price appreciation plus any realized dividends or capital gains. This is calculated by taking the following components during a certain time period. $(\text{Price Appreciation}) + (\text{Dividends paid}) + (\text{Capital gains}) = \text{Total Return}$

Treasury Bills - Short-term U.S. government non-interest bearing debt securities with maturities of no longer than one year and issued in minimum denominations of \$10,000. Auctions of three- and six-month bills are weekly, while auctions of one-year bills are monthly. The yields on these bills are monitored closely in the money markets for signs of interest rate trends.

Treasury Notes - Intermediate U.S. government debt securities with maturities of one to 10 years and issued in denominations ranging from \$1,000 to \$1 million or more.

Treasury Bonds - Long-term U.S. government debt securities with maturities of ten years or longer and issued in minimum denominations of \$1,000. Currently, the longest outstanding maturity for such securities is 30 years.

Weighted Average Maturity (WAM) - The average maturity of all the securities that comprise a portfolio. According to SEC rule 2a-7, the WAM for SEC registered money market mutual funds may not exceed 90 days and no one security may have a maturity that exceeds 397 days.

Yield - The current rate of return on an investment security generally expressed as a percentage of the security's current price.

Attachment A
Glossary of Cash and Investment Management Terms

Yield Curve - A graph showing the relationship at a single point in time between the available maturities of a security or similar securities with essentially identical credit risk and the yields that can be earned for each of those available maturities. A graphical depiction of the term structure of interest rates at any given point in time. Yield curves may be constructed for different instruments.

Yield-to-call (YTC) - The rate of return an investor earns from a bond assuming the bond is redeemed (called) prior to its nominal maturity date. **Yield Curve** - A graphic representation that depicts the relationship at a given point in time between yields and maturity for bonds that are identical in every way except maturity. A normal yield curve may be alternatively referred to as a positive yield curve.

Yield-to-maturity - The rate of return yielded by a debt security held to maturity when both interest payments and the investor's potential capital gain or loss are included in the calculation of return.

Zero-coupon Securities - Security that is issued at a discount and makes no periodic interest payments. The rate of return consists of a gradual accretion of the principal of the security and is payable at par upon maturity

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 9, 2010

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: John C. Randolph, Town Attorney

Re: Ordinance No. 7-10
Rescinding Chapter 2, Article VIII, Investment Policy

Date: February 23, 2010

STAFF RECOMMENDATION

The Town Attorney recommends that Ordinance No. 7-10, rescinding Article VIII of Chapter 2 of the Town Code of Ordinances be approved on first reading.

GENERAL INFORMATION

By virtue of Resolution No. 33-10 the Town has adopted a new Investment Policy. The previously existing Investment Policy which is incorporated in the Town Code of Ordinances at Chapter 2, Article VIII, should be rescinded. Please note that Article VIII is archaic language as it was held over as part of the municipal code subsequent to the adoption of Resolution No. 23-01 on February 13, 2001, as there was no specific language included in the Resolution rescinding the ordinance. As the Investment Policy has been adopted by Resolution, there is no need to continue the ordinance in effect.

ATTACHMENTS

Ordinance No. 7-10

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ORDINANCE NO. 7-10

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 2 OF THE TOWN CODE OF ORDINANCES RELATING TO ADMINISTRATION, AT ARTICLE VIII, INVESTMENT POLICY, AS AMENDED, SO AS TO RESCIND SAID ARTICLE, AS AMENDED, IN ITS ENTIRETY; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 2 of the Town Code of Ordinances, titled Administration, at Article VIII, Investment Policy, as amended, has been superseded by the adoption, by Resolution, of a new Investment Policy; and

WHEREAS, in light of the adoption of the new Investment Policy by Resolution, there is no further need for said Investment Policy to be incorporated in the Town Code at Chapter 2, Article VIII.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

Section 1. The Town Code of Ordinances is hereby amended at Chapter 2, Administration, by rescinding Article VIII, Investment Policy, as amended, in its entirety.

Section 2. 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 3. 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 4. Codification.

This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach.

Section 5. 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 9th day of March, 2010, and for second and final reading on this _____ day of _____, 2010.

Jack McDonald, Mayor

David A. Rosow, Town Council President

Gail Coniglio, Town Council President Pro Tem

William J. Diamond, Town Council Member

ATTEST:

Richard M. Kleid, Town Council Member

Joanna Cunningham, Town Clerk

Robert N. Wildrick, Town Council Member

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TOWN OF PALM BEACH

Town Council Meeting on: March 9, 2010

Section of Agenda

Regular Agenda - New Business

Agenda Title

Resolution No. 35-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Adopting Amendments to the Statement of Investment Policy for the OPEB Trust Board of Trustees of the Town of Palm Beach Pursuant to Section 82-153 of the Code of Ordinances of the Town of Palm Beach; Providing an Effective Date.

Presenter

Jane Struder, Director of Finance

Supporting Documents

- Memorandum Dated February 25, 2010, from Jane Struder, Finance Director
- Resolution No. 35-10
- OPEB Investment Policy

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 9, 2010

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: Jane Struder, Finance Director

Re: Modifications to the Investment Policy for the Town's OPEB Trust
Resolution No. 35-10

Date: February 25, 2010

STAFF RECOMMENDATION

Staff recommends that the Town Council approve Resolution No. 35-10 modifying the investment policy for the OPEB Trust.

BOARD OR COMMISSION RECOMMENDATION

The Investment Advisory Committee recommends that the Town Council approve the modifications to the OPEB Trust Investment Policy.

GENERAL INFORMATION

The OPEB Trust Investment Policy was originally adopted with Resolution 13-07 on March 13, 2007. The Investment Advisory Committee is recommending changes to the OPEB Trust investment policy. These changes include citing Florida Statute 215.473(e) which directs money managers to divest any investments held Sudan and Iran. In addition, the policy is amended to modify the asset allocation as shown with the in the attached policy. The Investment Advisor, Prime Buchholz worked with the Investment Advisory Committee to develop the changes to the asset allocation.

TOWN ATTORNEY REVIEW

The attached policy has been reviewed by the Town Attorney for legal form and sufficiency. Resolution No. 35-10 has been prepared by the Town Attorney.

jls

RESOLUTION NO. 35-10

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, ADOPTING AMENDMENTS TO THE STATEMENT OF INVESTMENT POLICY FOR THE OPEB TRUST BOARD OF TRUSTEES OF THE TOWN OF PALM BEACH PURSUANT TO SECTION 82-153 OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH; PROVIDING AN EFFECTIVE DATE.

WHEREAS, by adoption of Resolution No. 13-07 the Town Council adopted a Statement of Investment Policy for the OPEB Trust Board of Trustees of the Town of Palm Beach pursuant to Section 82-153 of the Code of Ordinances of the Town; and

WHEREAS, it is the desire of the Town Council to amend the Statement of Investment Policy for the OPEB Trust Board of Trustees.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, AS FOLLOWS:

Section 1. Resolution No. 13-07 is hereby rescinded.

Section 2. The Statement of Investment Policy for the OPEB Trust Board of Trustees attached hereto as Exhibit "A" is hereby adopted.

Section 3. This Resolution shall become effective immediately upon passage by the Town Council.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 9th day of March, 2010.

Jack McDonald, Mayor

David A. Rosow, Town Council President

Gail Coniglio, Town Council President Pro Tem

William J. Diamond, Town Council Member

ATTEST:

Richard M. Kleid, Town Council Member

Joanna Cunningham, Town Clerk

Robert N. Wildrick, Town Council Member

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TOWN OF PALM BEACH HEALTH INSURANCE TRUST

STATEMENT OF INVESTMENT POLICY

Effective:

The purpose of this Statement of Investment Policy is to establish and communicate the long-term objectives of the Town of Palm Beach Health Insurance Trust (the "Trust") by establishing a policy structure to maximize financial return consistent with the risks incumbent in each investment while establishing and maintaining appropriate diversification of assets. In addition, this Policy Statement describes the responsibilities of the Trustees, Investment Managers and performance benchmarks that will be used by the Trustees in monitoring investment performance.

General Objectives

The long-term objectives shall be to invest Trust contributions and assets controlled by the Trustees to ensure that there will be no erosion of the purchasing power of the funds. Investment Managers will be retained to ensure that investments are managed in a prudent and professional manner in compliance with all applicable statutes and regulations such as F.S. 215.47(1)-(8), (10) and (16). In addition thereto, the Trustees are governed by the "Prudent Investor Rule", codified in Section 518.11, Florida Statutes.

The assets of the Trust controlled by the Trustees shall be managed solely in the interests of plan participants and their beneficiaries. It is the intention of the Trustees to give the Investment Managers full investment discretion with respect to assets under their management, subject to the restrictions of this Statement of Investment Policy.

Investment Objectives

The investment return objective for the Total Fund will be measured against a benchmark comprised of the target asset allocation weights with benchmark index returns. The Investment Managers are expected to add value above their benchmark index net of fees over a five year moving period. According to the current actuarial assumptions, the expected return is designated at 8%.

Investment Consultant

The Trustees shall retain a professional investment consultant to monitor Investment Manager performance and provide such services as the Trustees deems appropriate.

Asset Allocation Policy

Since the selection and weighting of asset classes is the primary determinant of investment return and volatility, asset choice will be carefully considered by the Trustees in accordance with a systematic allocation process derived from consultation with their advisors. Asset allocation parameters have been developed for various funds within the structure, based on investment objectives and time horizons for intended use. The Trustees are aware that the markets will vary dramatically in the short term and that the actuarial rate of return assumption is based upon on a long term time horizon.

Approved asset classes and policy target ranges are as follows:

Return Enhancement	Asset Class		Target	Range	Benchmark
	Domestic Equity	<i>U.S. All Cap</i>	27.5 22.5	22.5-32.5 17.5-27.5	Russell 3000
	Non U.S. Equity	<i>International</i>	17.5 22.5	15-20* 17.5-27.5	MSCI AC World ex. US
	Alternative Strategies	<i>Directional Hedge</i>	10.0	7.5-10 5-15	HFRI FOF Strategic T-Bills + 500
	* Fla. statutes limit investment in foreign securities (equity, fixed income, and other) to 25%. Unconstrained, the target allocation to equities would be 22.5% Domestic and 22.5% International. *Limited to 25% of cost				

Risk Reduction	Asset Class		Target	Range	Benchmark
	Alternative Strategies	<i>Absolute Return</i>	10.0	7.5-10 5-15	HFRI FOF Conservative T-Bills + 500
	Fixed Income	<i>Multi-Strategy</i>	10.0	7.5-10 5-15	Barclays Capital Aggregate Lehman Brothers Aggregate
		<i>Convertibles</i>	10.0	7.5-10 5-15	BOA Conv. Bond US IG Lehman Convertibles
	Real Assets	<i>Marketable Real Assets</i>	15.0	10-20	Custom Index T-Bills + 500

Directional hedge investments are strategies in which a manager holds both long and short positions in securities, usually with net long exposure. Absolute return investments include various arbitrage strategies and other strategies designed to benefit from security mispricings.

Rebalancing Policy

The portfolio will be rebalanced to the target allocations whenever an individual asset class allocation moves outside its allowed range. Rebalancing discipline is the best process to maintain the risk/return posture originally adopted by the Trustees.

If any asset class falls outside the specified ranges, the Finance Director will order the Investment Manager(s) to either sell or expect new proceeds with which to purchase more securities. The investment manager/fund will be identified by their portion of assets held versus their target levels.

Manager Responsibilities

1. Each Investment Manager shall have investment discretion with respect to purchase and sale of assets under its management, consistent with this statement of investment policy.

Each Investment Manager is expected to immediately report to the Trustees any substantive changes in the ownership, affiliations, organizational structure, financial condition, regulatory actions, professional personnel staffing and clientele of their respective investment management organizations.

2. Each Investment Manager shall employ internal controls to ensure that investments will be accomplished in compliance with all controlling statutes and regulations. In addition, each Investment Manager will monitor portfolio activity to minimize uninvested cash balances.
3. Each Investment Manager shall be responsible only for those assets under its management and shall never aggregate such assets together with assets under management at any other Investment Manager in determining whether a particular guideline or limitation has been met.
4. Each Investment Manager shall employ controls which will ensure that diversification, marketability, and other guidelines provided in this Statement of Investment Policy shall be followed. Any exceptions shall be communicated to the Trustees for review and discussion at least quarterly.
5. Each Investment Manager is responsible for voting proxies on the stocks held in their portfolio in a manner consistent with the best interests of the Trust participants. Voting of proxies is viewed primarily as an investment decision integral to the duties of the Investment Managers and the Trustees will not express opinions on individual proxies.
6. Each Investment Manager shall be responsible to assure that not more than ten percent (10%) of the equity assets it manages are the common stock, preferred stock, and interest-bearing obligations having an option to convert into common stock, of any one issuing corporation; and shall not invest more than 3 percent of the equity assets of any fund in such securities of any one issuing corporation

except to the extent a higher percentage of the same issue is included in a nationally recognized market index, based on market values, at least as broad as the Standard and Poor's Composite Index of 500 Companies, without prior approval by the Trustees.

7. When feasible and appropriate, securities shall be purchased on competitive bid and the most economically advantageous bid must be selected.
8. The investment managers shall discharge their responsibilities in the same manner as if the Fund were governed by the fiduciary responsibility provisions of the Employee Retirement Income Security Act of 1974 (ERISA). Although the Fund Trustees acknowledge that ERISA does not apply to the fund as a governmental fund, it hereby imposes the fiduciary provisions of ERISA upon each investment manager, whose performance shall conform to the statutory provisions, rules, regulations, interpretations and case law of ERISA.

Authorized Investments

Trust assets may only be invested in investments permitted by F.S. 215.47(1)-(8), (10) and (11), and the restrictions set forth in this Statement of Investment Policy.

Internal Controls

The Trustees shall retain investment management organizations to actively invest in equity, fixed income, and cash equivalent securities. Each Investment Manager, within these guidelines, shall have full discretion with respect to the investment process. It is assumed and expected that each Investment Manager has established internal controls to ensure that the investment activity remains in compliance with all controlling statutes, regulations and the Trust's investment policies.

The Trustees shall retain a professional investment consultant to monitor each Investment Manager based on performance and other organizational issues.

As the plan sponsor, the Town of Palm Beach has established a system of internal controls, which include safeguarding controls, to promote the Town Council's objectives regarding compliance with applicable laws and other guidelines, the economic and efficient operation of the Town of Palm Beach, and the reliability of financial records and reports. Established procedures were designed to prevent losses of funds that might arise from fraud, employee error, or misrepresentation by third parties. The system of internal controls is set forth in the operational procedures of the Town of Palm Beach and is applicable to the assets controlled by the Trustees. Such system of internal controls shall be reviewed by independent certified public accountants as part of any financial audit required for the Trustees.

Restrictions

These restrictions apply to separately managed accounts only. To the extent commingled vehicles are utilized, the Trustees will endeavor to select funds that comply

with these restrictions.

1. There shall be no short-selling, securities lending, options trading, financial futures, or other specialized investment activity without prior approval by the Trustees.
2. There shall be no non-marketable direct investments in equity or debt private placements, or leasebacks. However, the Trustees may decide to invest in open-end commingled funds that invest in equity or debt private placements of real estate and/or participating and non-participating insurance contracts.
3. Each Investment Manager shall monitor assets under its jurisdiction to ensure that no purchase shall be made which would cause the holding of any one issuer to exceed ten percent (10%) of the equity assets it manages of the common stock, preferred stock, and interest-bearing obligations having an option to convert into common stock, of any one issuing corporation; and shall not invest more than 3 percent of the equity assets of any fund in such securities of any one issuing corporation except to the extent a higher percentage of the same issue is included in a nationally recognized market index, based on market values, at least as broad as the Standard and Poor's Composite Index of 500 Companies, without prior approval by the Trustees. In addition, no bond purchase shall be made which would cause the holding of any one issuer (excluding the U.S. Government and agencies or any bonds guaranteed by the U.S. Government) to exceed 5% of the Investment Manager's fixed-income portfolio valued at market.
4. Each equity manager shall monitor equity portfolio activity to assure that no holding shall exceed 5% of the issue outstanding.
5. Managers shall not invest in bonds or preferred stocks rated below investment grade without prior approval of the Trustees. In the event a security is split-rated, the higher rating will apply. Securities, which are unrated, may be purchased if, in the judgment of the manager, they would carry an investment grade rating. In the event an investment grade security is downgraded to below investment grade, the manager shall sell the security within a reasonable time period.
6. Not more than 2% of each Investment Manager's portfolio, valued at market, shall be invested in the commercial paper of a single issuer. No short-term money market instrument shall be purchased which has a rating less than A-1 (Standard & Poor's) or P-1 (Moody's).
7. Not more than 2% of each Investment Manager's portfolio, valued at market, shall be invested in the bank certificates of deposit of a single issuer.
8. Not more than 10% of each Investment Manager's portfolio, valued at market, shall be invested in short term instruments less than one year of maturity or cash equivalents.
9. No repurchase agreements shall be entered into by an Investment Manager or the Trustees.

10. Managers shall be notified of and be in compliance with Florida Chapters 215.473(e) no later than September 30, 2010. See Appendix A.

Investment Manager Reporting

At the end of each month, each Investment Manager shall forward to the Trustees, the Finance Director and the Investment Consultant the following information: 1) A listing of all equity or fixed-income securities bought and sold during the month, 2) The date of each purchase or sale, 3) The price paid or received for each security, 4) The number of shares or bonds bought and sold, 5) The market value gain or loss resulting from each sale, 6) Any proxy votes against management. Annually, the Investment Manager shall forward to the Trustees, the Finance Director and the Investment Consultant the following information: 1) A listing of all proxy votes for the previous 12 months, 2) A letter indicating compliance with the investment restriction contained herein.

Third-Party Custodial Agreements

Appropriate arrangements must be made by the Trustees for securities under its control to be held by third parties. The custodian shall hold all securities, collect and credit all proceeds from the sale of such securities, collect and credit to income all dividends, interest, and other income on the securities, and invest the principal and income of the account as directed by the Trustees or authorized Investment Manager. No withdrawal of securities, in whole or in part, shall be made from safekeeping, except as authorized by the Trustees. Securities transactions between a broker-dealer and the custodian involving purchase or sale of securities by transfer of money or securities must be made on a "delivery vs. payment" basis, if applicable, to ensure that the custodian will have the security or money, as appropriate, in hand at the conclusion of the transaction.

Expected Annual Rate of Return/Filing

For each actuarial valuation, the Trustees shall determine the total expected annual rate of return for the current year, for each of the next several years, and for the long term thereafter. This determination and this Statement of Investment Policy, together with any amendments, must be filed by the Finance Director with the Department of Management Services of the State of Florida, the Town Council of the Town of Palm Beach, and with the consulting actuary.

Review of Policy

This Statement of Investment Policy must be reviewed at least annually by the Trustees and revised or confirmed as appropriate. Each Investment Manager shall acknowledge in writing the receipt of this Statement of Investment Policy and acceptance of its terms. If any Investment Manager believes at any time that any changes, additions or deletions to this Statement are advisable, it will be the responsibility of that Manager to recommend (in writing) such changes to the Trustees. Investment returns shall be related to objectives and performance benchmarks in conjunction with the investment performance consultant's presentation of results.

APPENDIX A: SUDAN AND IRAN DIVESTITURE

- **Florida Chapter 215.473(e):** Notwithstanding the provisions of this act, paragraphs (b) and (c) do not apply to indirect holdings in actively managed investment funds. However, the public fund shall submit letters to the managers of such investment funds containing companies that have scrutinized active business operations requesting that they consider removing such companies from the fund or create a similar actively managed fund having indirect holdings devoid of such companies. If the manager creates a similar fund, the public fund shall replace all applicable investments with investments in the similar fund in an expedited timeframe consistent with prudent investor standards. For the purposes of this section, a private equity fund is deemed to be an actively managed investment fund.

TOWN OF PALM BEACH

Town Council Meeting on: March 9, 2010

Section of Agenda

Regular Agenda - New Business

Agenda Title

Proposed Royal Poinciana Way Association Auto Show.

Presenter

Thomas G. Bradford, Deputy Town Manager

Supporting Documents

- Memorandum dated February 26, 2010, from Thomas G. Bradford, Deputy Town Manager
- Royal Poinciana Way Fall Auto Show Request

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 9, 2010

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: Thomas G. Bradford, Deputy Town Manager

Re: Proposed Royal Poinciana Way Association Fall 2010 Auto Show

Date: February 26, 2010

STAFF RECOMMENDATION

Staff recommends that the Town Council approve allowing the Royal Poinciana Way Association to conduct an Auto Show promotional event.

GENERAL INFORMATION

At the Town Council meeting in April 2009, the Town Council approved the following policy as a prerequisite to considering promotional events sponsored by one of the Town's business associations for application to those instances where the proposed event would result in technical, but minor, violations of the Town Code:

1. The event must be sponsored by the Palm Beach Chamber of Commerce, the Royal Poinciana Way Business Association, the Greater South County Road Association, or the Worth Avenue Association.
2. The event must not involve the blocking of any public streets or sidewalks.
3. The event must be no longer than 4 hours duration.
4. The event organizers must coordinate their plans with the Police and Fire-Rescue Departments and must adhere to any conditions established by those two departments for protection of public safety.
5. The event organizers must coordinate their plans with the Public Works Department and must adhere to any conditions established by that department for the protection of property and infrastructure.
6. Each proposed event will be considered on its own merits and will be allowed only if approved by a majority vote of the Town Council.

The Royal Poinciana Way Association proposes to sponsor an Auto Show event on December 11, 2010, in order to generate shopping traffic for the businesses within the commercial district. The event will be conducted on private property at the Royal Poinciana Plaza. The event coordinators wish to conduct the event for 6-8 hours instead of the 4 hour duration enumerated in the approved policy. All other requirements of the policy have been or will be met.

The materials submitted with the request indicate that the Association wishes to create an annual automobile exhibition. Unless the Town Council specifies that any approval granted pursuant this request is applicable to future years, any approval granted will apply only to the specified event in 2010.

Attached hereto as Exhibit A, please see the event concept proposal submitted by Mr. Harry Welsh who has been coordinating the implementation of the event on behalf of the Royal Poinciana Way Association. Please note that if the Town Council approves the request on March 9, it is the intent of Mr. Welsh to secure the exhibition space and draft a full itinerary for the event and present it to the Town and the required departments as indicated in your adopted policy. If staff finds that the itinerary is in conflict with the adopted special event policy of the Town we will bring the matter back to the Town Council for review.

TGB/ab

cc: Department Directors
William Cummings, President, Royal Poinciana Way Association
Harry K. Welsh, Main Street Marketing, LLC

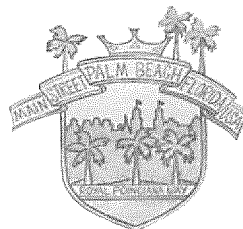
N:TGB/Agenda Items/2010/ Proposed Royal Poinciana Way Association Fall 2010 Auto Show

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S
AUTO
FALL
2010
SHOW

Located At Royal Poinciana Way
Palm Beach

ROYAL POINCIANA WAY ASSOCIATION



AUTO EXHIBITION AT ROYAL POINCIANA WAY

In Order:

- 1-Sheet
- Support Letter From Royal Poinciana Way Business District
- Emails From Town of Palm Beach Officials
- Harry K. Welsh Background Information
- Proposed EXHIBITION Area

Main Street Marketing, LLC

P.O. Box 3085
Palm Beach, FL 33480
Service: 203-222-3574
Email: hwelsh@1mainstreetmarketing.com

Auto Exhibition At Royal Poinciana Way 1-Sheet

EXHIBITION:

- 1) Establish an annual Auto Exhibition that showcases the Royal Poinciana Way Business District (RPWBD), Town of Palm Beach and participating Palm Beach County automobile dealerships upscale models that is free to the public.
- 2) The date being scheduled is December 11, 2010 with a rain date on the 12th.
- 3) The EXHIBITION will be held in a private parking facility adjacent to Royal Poinciana Way (RPW) and supported by the RPWBD (see attached letter). Attached, is a rendering indicating EXHIBITION location and number of spaces. We would most likely only need half of the spaces in the area indicated for the EXHIBITION.
- 4) In addition to overall RPW area parking...this facility has more than adequate space to comfortably accommodate both exhibitor and spectator parking.
- 5) The space already has the required traffic flow entrances and exits required by code enforcement. Initial contact has been made with the appropriate authorities (see attached emails).
- 6) Presently, there is adequate onsite sanitation. However, additional facilities can be provided if necessary.
- 7) It should be noted, that this is designed to be a 6-8hr event. The event will experience a traffic flow that already sufficiently accommodates retail, restaurants and business activity on any given day. Specifically, exhibitors and spectators will not all arrive and leave at the same.
- 8) There will be no other activities and/or services associated with the EXHIBITION.
- 9) Any EXHIBITION signage will be limited to the designated property and adhere to local, county and state policy.

BENEFITS:

RPW/PB:

- Bring residual awareness and revenues to RPWBD and PB
- Provide ongoing added-value
- Generate merchant sales revenue
- Positive message...Palm Beach appreciates the dealers. Good for all.

DEALERSHIPS:

- Build awareness for their dealership
- Create awareness for the individual, upscale, brands

NEXT STEPS:

Upon approval from the town council, the EXHIBITION space will be secured and a full itinerary will be drafted and presented to the town.

Royal Poinciana Business District

Mr. Harry K. Welsh
Main Street Marketing, LLC
P.O. Box 3085
Palm Beach, FL 33480

November 30, 2009

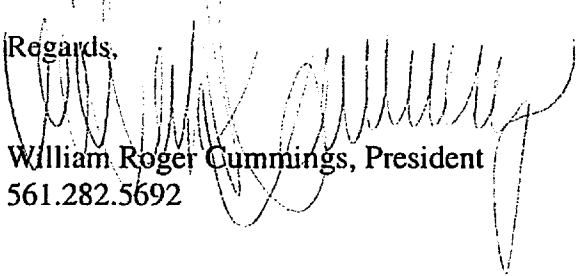
Dear Mr. Welsh:

We are encouraged by your steadfast efforts with the Town of Palm Beach concerning the proposed 2010 Auto Show. We are eager to be part of an annual event that would build both awareness and interest for the Royal Poinciana Business District and the Town.

You have our full support. We look forward to a cooperative effort bringing this worthwhile event to reality. We understand that you need the approval of the Town Council before you can begin creating an agenda for the event.

Once again, we are 100% behind you.

Regards,


William Roger Cummings, President
561.282.5692

From: TPompos@TownofPalmBeach.com
Subject: **Re: Fwd: Royal Poinciana Way Dealer Car Show**
Date: October 15, 2009 10:57:13 AM EDT
To: Harry Welsh <hwelsh@earthlink.net>
Cc: BATwater@TownofPalmBeach.com, BAmador@townofpalmbeach.com, fireprevention@townofpalmbeach.com, TBradford@TownofPalmBeach.com
 2 Attachments, 303 KB  Save 

Mr. Harry Welsh:

Hello! It was a pleasure talking with you on the telephone earlier today. Per our conversation, here is list of items that you may need address depending on the size and the magnitude of the event.

- Proof of insurance
- Post Sanitation
- Plan of route/exhibit
- Portable toilets
- Tent permits if needed
- Signed declaration that all access shall be kept open for emergency response
- Sound levels for amplified sound
- Private security company or Palm Beach Police Department for security and travel flow control?
- Food or beverage? how is it heated?
- Use of sidewalks or other public ways including streets.
- No barriers or signs for sponsorship implying support by the TOPB
- Event chairperson/contact number
- Fee paid in advance
- Estimate number of people that will attend the event.
- Event diagram - Site Plan (clearly showing access for Fire/Police- access shall be minimum of 20 feet in width)

The Palm Beach Fire Rescue Department will be happy to meet with you to assist you on items that pertain to fire and life safety codes. All other items for your event you may need seek the approval of other Departments within the Town.

Also, here are the two forms that we talked about on the phone. If you have any questions, please don't hesitate to call me.

Thank you,
Timothy Pompos, Fire Marshal
Division Chief of Fire Prevention and Life Safety
300 North County Road
Palm Beach, Florida 33480
Office # 561-227-6440
Cellular # 561-801-2710
Fax# 561-838-5427
tpompos@townofpalmbeach.com

This transmission contains information that may be confidential and that may also be privileged. Unless you are the intended recipient (or authorized to receive it for the intended recipient), you may not copy, forward, or otherwise use it, or disclose its contents to anyone else. If you have received this transmission in error, please notify me immediately and delete it from your system. Under Florida law, e-mail addresses and messages are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to me. Instead, contact my office by phone or in writing. Thank you.

From: Harry Welsh <hwelsh@earthlink.net>
To: tpompos@townofpalmbeach.com
Date: 10/14/2009 01:15 PM
Subject: Fwd: Royal Poinciana Way Dealer Car Show

Dear Mr. Pompos

I had the pleasure of meeting with Tom Bradford last week to review plans for hosting a 'dealer driven' car show for the Royal Poinciana Way

From: DSzarszewski@TownofPalmBeach.com
Subject: **Re: Fwd: Royal Poinciana Way Dealer Car Show**
Date: October 16, 2009 1:19:48 PM EDT
To: NToscano@TownofPalmBeach.com, RWalton@TownofPalmBeach.com, RHowe@TownofPalmBeach.com, JMaio@TownofPalmBeach.com
Cc: Harry Welsh <hwelsh@earthlink.net>, TBradford@TownofPalmBeach.com

Mr. Welsh,

Thank you for contacting Town representatives to assist you with this project. If the event is located on private property, then you would not need a special events permit. However, there may be actions associated with your event which could be in violation of our Town Code. Advertising, Sales, etc... Please communicate with our Lead Code Enforcement Officer, Rob Walton, to discuss the location and other aspects of this event. He can better guide you in your preparations. Mr. Walton can be reached on his office phone, 227-6423.

Rob Walton can be of further assistance to you in this matter. If you would like to speak with me, please contact me at my office number of 227-6352.

Regards,

Major Dan Szarszewski

From: Nina Toscano/PalmBeach
To: Harry Welsh <hwelsh@earthlink.net>
Cc: Daniel Szarszewski/PalmBeach@PalmBeach, Thomas G. Bradford/PalmBeach@PalmBeach
Date: 10/14/2009 03:32 PM
Subject: **Re: Fwd: Royal Poinciana Way Dealer Car Show**

Dear Mr. Welsh,

Thank you for your email. I have forwarded your message to Major Dan Szarszewski who will be contacting you directly. He will be back in the office on Friday, 10/16/09.

Thank you.

Nina Toscano
Palm Beach Police Department Administration
Tel: 561-838-5460 - Fax: 561-835-4600
Email: ntoscano@palmbeachpolice.com

From: Harry Welsh <hwelsh@earthlink.net>
To: ntoscano@townofpalmbeach.com
Date: 10/14/2009 01:13 PM
Subject: **Fwd: Royal Poinciana Way Dealer Car Show**

From: RWalton@TownofPalmBeach.com
Subject: **Re: Proposed Royal Poinciana Plaza Auto Show**
Date: October 29, 2009 2:59:14 PM EDT
To: Harry Welsh <hwelsh@earthlink.net>
Cc: JMaio@TownofPalmBeach.com, TBradford@TownofPalmBeach.com, PCastro@TownofPalmBeach.com, JPage@TownofPalmBeach.com, BAmador@townofpalmbeach.com, KBlouin@TownofPalmBeach.com

Mr Welch, The below are guide lines for promotional events within the Town of Palm Beach that do not require a permit under the Town's Special Event permit ordinance, Section, 106-282. Please contact Deputy Town Manager Tom Bradford, 561 838-5410, sixty (60) days prior to the scheduled event to coordinate your application for Town Council review.

The event must be sponsored by the Palm Beach Chamber of Commerce, the Royal Poinciana Way Business Association, the Greater South County Road Association, or the Worth Avenue Association.

The event must not involve the blocking of any public streets or sidewalks.

The event must be no longer than four (4) hours in duration.

The event organizers must coordinate their plans with the Police and Fire-Rescue Departments and must adhere to any conditions established by those two departments for the protection of public safety.

The event organizers must coordinate their plans with the Public Works Department and must adhere to any conditions established by that department for the protection of public property and infrastructure.

Each proposed event will be considered on its own merits and will be allowed only if approved by a majority vote of the Town Council.

Proposed deviations from the approved guidelines to be vetted with the affected departments and must also be approved by a majority of the Town Council

Robert Walton, Code Compliance
Palm Beach Police Department
ofc: (561) 227-6423
fax: (561) 835-4736

From: Harry Welsh <hwelsh@earthlink.net>
To: rwalton@townofpalmbeach.com
Date: 10/28/2009 01:30 PM
Subject: Auto Show

Hi Mr. Walton:

Wanted to touch base to see where you are with the 'compliance' list you were going to provide me. As mentioned, I have list from Mr. Pompos. Look forward to hearing from you.

Regards,

Harry

Harry Welsh

Harry K. Welsh
Cell: 203.247.1806
E-mail: hwelsh@earthlink.net

4/96-Present: THE ADVERTISING GROUP, LLC and MAIN STREET MARKETING, LLC, Westport, CT and Palm Beach, FL, respectively – Own/Operate new business development companies.

- Creating new opportunities for automobile dealers to target upscale consumers in high-traffic, pedestrian locations.
- Specializing in retail advertising guides for Fairfield and Palm Beach County businesses. Responsible for all aspects of production and marketing.
- Launched Internet domain www.TownPixx.com designed exclusively to promote a quick link to a business website. Present territory is CT, VT, MA and FL.
- Created promotional trademarked concept licensed to bar/restaurants.
- Consulted for Internet development start-ups. Managed the marketing and presentation process for the construction of new websites.
- Created an ENTERTAINMENT ACCESS IVR service for the travel and hospitality industry.

8/95-4/96: SMARTSERVE ONLINE, INC. Stamford, CT- Internet service provider that markets third-party online business and consumer information via PC's, PDA's and cell phones.

Consultant: Developed new online opportunities related to content and platforms targeting businesses and consumer households.

- Developed marketing plans, direct-marketing and corporate collateral material.
- Responsible for all marketing aspects of IPO.
- Reviewed new online service opportunities for potential integration with strategic partners.
- Directed team of programmers developing websites for strategic business partners.
- Structured IVR menus for customer service information and fulfillment programs.

6/93-8/95: TOUCHTONE ENTERPRISES, INC. NYC - Specialized in the development of IVR entertainment/information programs.

General Manager: Created promotion and information-driven programs for media/marketing companies. Integrated business/marketing efforts with IVR, Internet and Touch-Screen kiosks.

- Launched 777-CLUB a NYC nightlife guide.
- Established online music previewing for Columbia Record Club.
- Created interactive print advertising.

Page: 2

9/92-6/93: CORPORATE LEAGUE TENNIS, INC. NYC - Sports marketing firm that promoted competitive tennis leagues among Fortune 500 companies.

Director, Business Development: Expanded league nationally from it's NYC origin.

2/89/5/92: SAATCHI & SAATCHI ADVERTISING WORLDWIDE, NYC - Multifaceted international communications company.

Vice President: Directed the development of sports marketing and promotional communications programs for the Saatchi & Saatchi Promotion Group.

- Developed corporate sponsorship packages for 1992 Olympic Summer and Winter Games and U.S. Olympic team.
- Directed various account groups in the creation, development and marketing of promotional concept.
- Managed promotion effort for the Burger King account.

5/85-1/89: US SPORTS GROUP, INC. Westport, CT- Created innovative concepts for marketing sports promotional products and programs including books, calendars, magazines and audio cassette.

Vice President Marketing: Marketed products to Fortune 500 travel-related and financial service companies.

5/80-7/83: SILVER LAKE INN - Owned and operated 4-season resort in the Adirondacks.

10/77-4/80: CAPITAL SPORTS, INC. NYC- Sports marketing firm focused on event marketing and grassroots programs.

Marketing Manager: Developed sports marketing programs for Fortune 500 clients. Recruited corporate sponsors and developed related promotional themes for major sporting events.

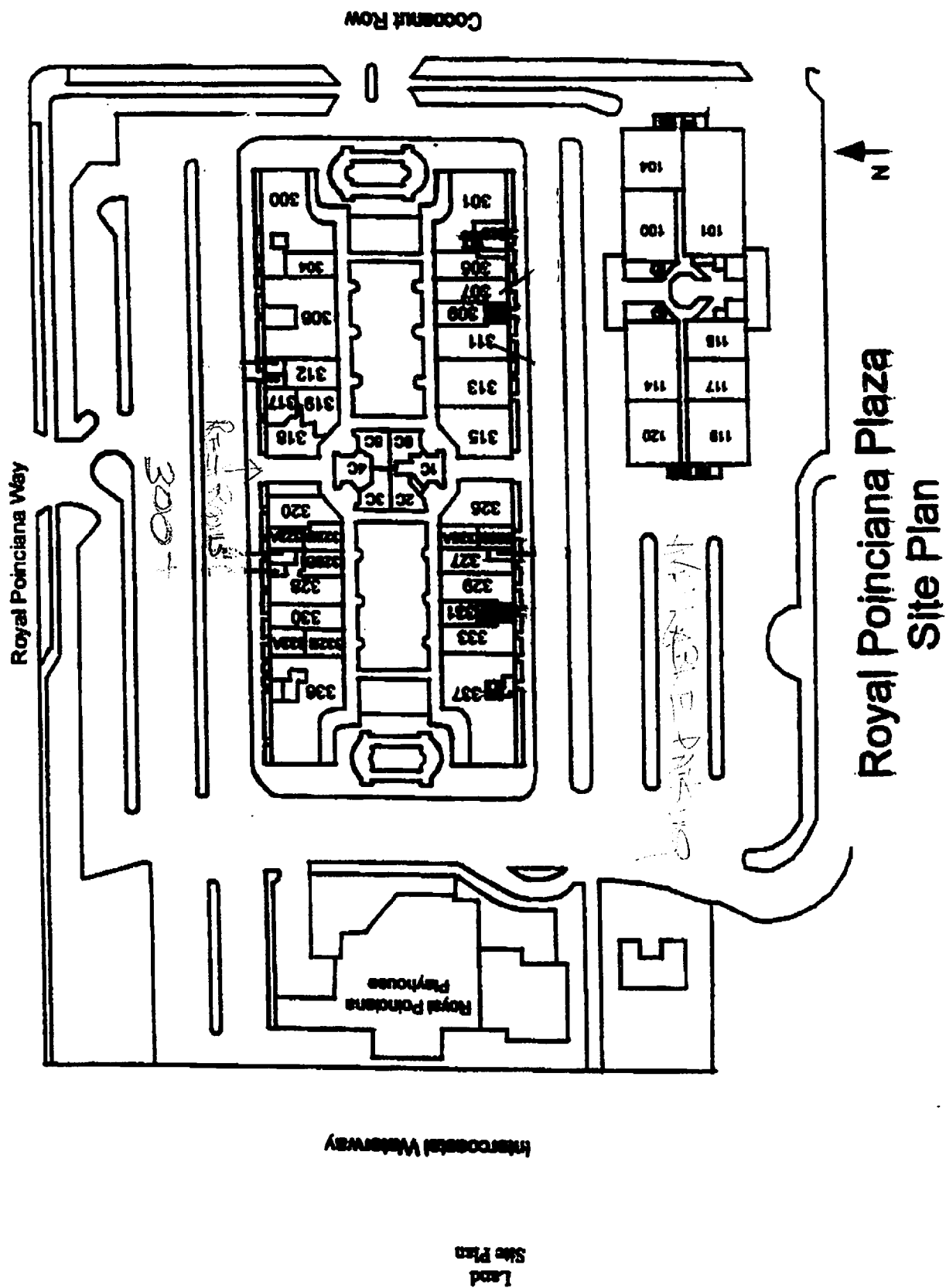
- 1980 Olympic Winter Games
- U.S. Tennis Open
- Equitable Life Family Tennis & Ski Challenges.

10/74-10/77: CUNNINGHAM & WALSH ADVERTISING, INC. NYC- Leading 'package goods' advertising agency.

Account Executive: Represented P&G Folgers Coffee.

- Brought brand national

EDUCATION: State University of New York BS Marketing. Plattsburgh - 1974



TOWN OF PALM BEACH

Town Council Meeting on: March 9, 2010

Section of Agenda

Regular Agenda - New Business

Agenda Title

RESOLUTION NO. 28-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Purchase Order to Kimley-Horn and Associates for a Sewage Force Main Subaqueous Crossing and Sewage Pump Station Analysis for the Town of Palm Beach.

Presenter

H. Paul Brazil, Director of Public Works

Supporting Documents

- Memorandum dated February 26, 2010, from H. Paul Brazil, Director of Public Works.
- Resolution No. 28-10

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 9, 2010

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: H. Paul Brazil, Director of Public Works

Re: Award of Subaqueous Force Main and Sewage Pump Station Analysis
Resolution No. 28-10

Date: February 26, 2010

STAFF RECOMMENDATION

Staff recommends that Town Council approve Resolution No. 28-10 authorizing the award of Subaqueous Force Main and Sewage Pump Station Analysis Services in the amount of \$76,350 to Kimley-Horn and Associates, and establishing a study / design phase budget of \$84,000.

GENERAL INFORMATION

Town Council has approved the Accelerated Capital Improvement Program and staff has begun implementation of the program. The recommended plan identified two force main replacement projects. One from the S-2 pump station (Bradley Park) to Tangier Avenue and the other from Currie Park in West Palm Beach to a proposed new sewage pump station (23rd Street and Tamarind Avenue in West Palm Beach). A new subaqueous crossing (sanitary pipeline beneath the Intracoastal Waterway) is planned for the second proposed bond issue in 2017.

The City of West Palm Beach has recently completed an analysis to replace a 24 inch water main across the Lake Worth Lagoon. The replacement is necessary because of a conflict with the upcoming Flagler Bridge replacement. This may present an opportunity for the Town to accelerate the installation of the subaqueous crossing at a greatly reduced cost. Staff suggests that we explore installing our subaqueous crossing at the same time that the City installs the new waterline. The City has expressed a willingness to share construction costs including mobilization. It may also be an opportunity to eliminate one of the two planned forcemain replacements (Bradley/ Northlake Way from Bradley Park to Tangier Ave). This section alone is expected to cost approximately \$ 2.5 million. We would also greatly minimize impacts to the residents. Additional benefits include:

1. The City has conceptually agreed to bidding the two projects together, realizing a saving to both the City and Town.
2. The Town can take advantage of work already completed by the City which includes a route survey, soil borings, and an environmental analysis. Both are needed for permitting.
3. Permitting approval should be easier for the Town (Florida Department of Environmental Protection and United States Army Corps of Engineer permits). The City will have already answered the permitting agencies' questions. The Town force main will parallel the City water main so expected impacts will be the same.

A second part to the proposed scope of work is to evaluate the need for the sanitary pump station at 23rd Street and Tamarind Avenue in West Palm Beach. This station is deteriorating and is scheduled for replacement. Funding was previously approved (not part of the accelerated program). Staff feels that we may be able to abandon this station and realize a significant savings to the Town which may exceed one million dollars. The proposal includes an investigation into the effects of a shorter pumping distance (new subaqueous location) combined with more modern pumps at the S-2 station. We will also explore all opportunities to minimize our footprint in Bradley Park.

Town staff and consultants will continue to review the approved plan and will recommend changes in the plan if we believe they will be of benefit to the Town. We have discussed with our Bond Attorney whether changes to the approved plan can be made without violating the bond covenants. We were advised we could make changes provided the “substitute projects” are similar in nature to those that were identified in the bond documents. In this instance, all projects are related to sewage improvements and would be allowed under the bond.

FUNDING/FISCAL IMPACT

The subaqueous force main crossing design and permitting and the force main route and pump station analysis is not to exceed the proposed budget of \$84,000. Funds for this work will come from the Accelerated Capital Improvement bond fund.

TOWN ATTORNEY REVIEW

This is a standard resolution in a form previously approved by the Town Attorney for legal form and sufficiency.

HPB:mrs

Attachment

cc. Charles R. Langley, Assistant Director of Public Works/Engineering
Eric B. Brown, Assistant Director of Public Works/Operations
James M. Bowser, Town Engineer
Douglas Terry, Water Resources Division Manager
Steve White, Construction Manager

RESOLUTION NO. 28-10

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AWARDING A PURCHASE ORDER TO KIMLEY-HORN AND ASSOCIATES FOR A SEWAGE FORCE MAIN SUBAQUEOUS CROSSING AND SEWAGE PUMP STATION ANALYSIS FOR THE TOWN OF PALM BEACH.

* * * * *

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

Section 1. The Subaqueous Sewage Force Main and Sewage Pump Station Analysis design services contract is hereby awarded to Kimley-Horn and Associates for their proposal amount of \$76,350, with allowance for a 10% contingency for a total amount of \$84,000.

Section 2. The Town Manager is hereby authorized and directed to execute a purchase order on behalf of the Town of Palm Beach for these design services with Kimley-Horn and Associates.

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 completion of the design services for the Subaqueous Sewage Force Main and Sewage Pump Station Analysis.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on this 9th day of March 2010.

Jack McDonald, Mayor

David A. Rosow, Town Council President

Gail Coniglio, Town Council President Pro Tem

William J. Diamond, Town Council Member

ATTEST:

Richard M. Kleid, Town Council Member

Joanna Cunningham, Town Clerk

Robert N. Wildrick, Town Council Member

TOWN OF PALM BEACH

Town Council Meeting on: March 9, 2010

Section of Agenda

Regular Agenda - New Business

Agenda Title

Annual Strategic Plan Update.

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Memorandum dated February 22, 2010, from John Page
- Strategic Plan Implementation Schedule

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 9, 2010

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: Annual Strategic Plan Update

Date: February 22, 2010

STAFF RECOMMENDATION

Staff recommends that the Town Council accept the staff report on activities in the past year related to the Strategic Plan, consider any comments by the public, and direct the staff to make any changes that Council determines are necessary or advisable.

GENERAL INFORMATION

The Strategic Plan was adopted by the Town Council in 2003, and underwent a comprehensive review in 2008/2009 conducted by Town staff, Town residents and businesses and the Town Council over a period of several months. The update was adopted formally by the Town Council in July of 2009.

The Strategic Plan also calls for Council to review implementation progress and make appropriate modifications annually. In preparation for this review, the staff has prepared an update of implementation activities (attached) for the Council's consideration at its March 9, 2010 meeting. The comments provided by the staff are shown in bold italic text immediately following each applicable item.

Any changes approved by Town Council on March 9 will be incorporated into a Resolution for formal adoption by Town Council on the consent agenda for the April 13 Town Council meeting.

STRATEGIC PLAN

This agenda item is in compliance with item A1 on the Strategic Plan, which states that the Mayor and Town Council should annually review the progress of the Plan.

Attachment

cc: Peter B. Elwell, Town Manager
Thomas G. Bradford, Deputy Town Manager
Department Directors



TOWN OF PALM BEACH

STRATEGIC PLAN IMPLEMENTATION SCHEDULE

ADOPTED MAY 13, 2003
Most Recently Revised July 14, 2009

2009 ACTIONS

- A2. a) Decide on a standard format for 2-day-per-month Town Council meetings and adopt an ordinance to formalize the 2-day meeting schedule and make it clearly known to the general public.

Timeframe: By June of 2009.

The Council elected to retain its current two-day Tuesday/Wednesday schedule occurring the 2nd Tuesday of the month. All items except those relating to development review are considered on Tuesday, and Development Review and related items are heard the next day (Wednesday).

- D2. **Underground Utilities:** Pursue opportunities to place utilities underground, including the following:

- a) Continue working with the Municipal Underground Utilities Consortium (MUUC) and others in an effort to effectively reduce the cost of converting overhead lines to underground service.

Timeframe: By year-end 2009.

This item is ongoing. MUUC is waiting on PSC final adjudication of the proposed Settlement Agreement between FPL and the MUUC pertaining to underground rate tariff Petitions postponed due to the FPL base rate case concluded in January 2009.

- E1. **Planning:** Complete a Continuity of Operations Plan (COOP) for the Town. A COOP is a plan for continuing Town services for a 30-day period following a large disaster.

Timeframe: 2009.

The Continuity of Operations Plan (COOP) was completed by staff and endorsed by the Town Council on August 11, 2009. Annexes are under development.

- I3. **Density Issues:** Review the appropriateness of zoning text changes to the R-B zoning district, in comparison to R-A requirements, in order to create logical and just lot area, bulk, lot coverage, setback and height regulations.

Timeframe: 2008-2009 Zoning Season.

In 2009, the Town modified the R-B zoning regulations for lots on the Lake between Dunbar Road and Reef Road. The intent of the changes was to relax zoning regulations for the larger Lake front lots (20,000 square feet or more in size) in the R-B zoning district within this area by

exempting them from the more restrictive R-A lot coverage, landscape open space and setback requirements. In addition, the changes also included a more generous cubic content ratio (ccr) by eliminating the sliding scale for those size R-B lots and creating a flat 4.5 ccr.

- J2. **Sand Transfer Plant:** Initiate construction of Phase I of STP renovation with this phase to be completed in December 2009. Initiate permitting efforts for Phase II in November 2009.

*Timeframe: Phase I, Completion by December of 2009
Phase II, Undetermined*

Phase I has been completed. The permitting process for Phase II has begun. Permit issuance is expected in FY 2012.

- J3. **FEMA Dune Restoration at Mid-Town and Phipps:** Truck haul placement of approximately 98,000 cubic yards of sand from upland source to replace losses from Tropical Storm Fay.

Timeframe: November 2009, Pending Project Worksheet Approvals and Securing Necessary Permits

FEMA approved this project for Federal funding. The processing of the State and Federal permit applications is ongoing and the permits are expected to be received during FY 2010. Placement of sand is scheduled to occur between November 1, 2010, and March 1, 2011.

- J5. **Critically Eroded Beach Designation in Reach 8:** Town Council, Shore Protection Board, and Staff to urge the Secretary for the State of Florida Department of Environmental Protection to designate all areas of Reach 8 as “critically eroded”. This designation will be helpful in obtaining coastal protection project permits as well as additional State and potential County funding.

Timeframe: 2009

Timeframe to receive designation has been revised to occur in 2011.

2010 ACTIONS

- A3. **Key Results Measurement (KRM):** Staff has embarked on a performance measurement program. Additional refinement of the KRM and Townwide Goal setting system is planned that will align measurement of services with the vision for the town. We will be developing trend information each year that will become a useful management tool. Additional measures may be added as we develop the software capabilities to track the information in an efficient manner.

Timeframe: Begin work in FY09 for the FY10 Budget and Ongoing Monitoring after FY10.

The Town has included KRMs for the FY10 budget and will continue monitoring in future years. The intense effort we had planned for expanding this system has been postponed due to reduced staff resources and management's focus on reducing Town operating expenses.

The Recreation Department's KRMs are updated quarterly and are reviewed annually for appropriateness to the Recreation Enterprise Fund's goals. The desired outcomes and the measurements are key indicators of the efforts of the Fund and include all areas of the Recreation Department - Administration, Marina, Golf, Tennis, and Recreation Center. The KRM's are enhanced by goals-driven management tools such as Workload Indicators and Action Plans and are an element of the annual Recreation Enterprise Fund Business Plan Report.

A5. Public Communications:

e) Create a Townwide citizens' academy (similar to the Police and Fire-Rescue citizen academies) to better educate Palm Beach residents and business owners about non- Public Safety Town services.

A Town-wide citizens' academy, called "Inside Palm Beach Government" began on Thursday, February 25, 2010, and will run 5 (five) consecutive Thursdays through March 25. The departments to be highlighted include Administration (Town Managers Office, Finance, and Human Resources), Planning, Zoning & Building, Public Works, and Recreation.

A8. Charter Review: Consider appointing a Charter Review Commission near the end of the current planning period.

Timeframe: By year end 2010.

On December 17, 2009, Town Council considered appointing a Charter Review Commission and voted to not appoint a Commission during 2010.

E2. Planning: Complete a Pandemic Flu Plan for the Town.

Timeframe: 2010.

Elements of this were addressed during the H1N1 outbreak of 2009 and this item is scheduled for full formal completion in 2010.

K6. Sanitary Sewer Pneumatic System: Implement replacement program.

Timeframe: By year end 2010

Implementation of the replacement or upgrade of the "E" stations began in FY 2010. Work on the entire system is included in the recently approved accelerated capital improvement program. Completion is expected in FY 2012.

- L3. **Golf Course:** Assess the financial condition and structure of golf course operations. The upcoming restoration of the golf course will include a deep well from which brackish water will be drawn to irrigate the golf course. All vegetation, grass, trees, etc. will be selected according to their tolerance of brackish water.
Timeframe: FY09 and FY10.

The recently renovated Palm Beach Par 3 re-opened for play on December 9, 2009. Operationally, there is a reduced FTE count through attrition, and with a contracted provider of labor services the Town's benefit liability has been reduced. In addition, updated standards for operation and maintenance have been developed.

After the renovation, and reviewing the finances, a financial plan has been identified which focuses on tiered pricing based on residency, pricing levels based on competitors, and marketing to drive volume and build customer loyalty.

ONGOING ACTIONS

- A1. **Strategic Planning:** Continue and expand the strategic orientation of Town government with the following measures:

- a) Continue to apply the principles of goal-driven management and performance standards throughout the organization.

The principles of goal-driven management and performance standards continue to be applied throughout the organization.

- b) Monitor and periodically revise the Strategic Plan.

Timeframe: At least annually, the Mayor and Town Council will review progress on implementing this Plan and make appropriate modifications, as needed. In 2012, the Town Council will appoint an ad hoc Strategic Planning Board or assign a Town Council committee to conduct a strategic planning process and write an updated Strategic Plan.

The Town Council will consider this report and public input during its annual review of the Strategic Plan on March 9, 2010.

- c) Maintain consistency between the Comprehensive Plan and the Strategic Plan.

The Planning, Zoning & Building Department will be monitoring consistency between the Comprehensive and Strategic Plans over the next several years (2010 – 2013) as the data and analysis for the Comprehensive Plan are updated in preparation for the next Evaluation and Appraisal Report (EAR), which will be done in 2013.

- d) Any time staff proposes a policy action that is intentionally inconsistent with this Strategic Plan, the inconsistency shall be declared and explained in writing.

The staff continues to do this when it is applicable. It rarely is, since most actions are either consistent with the Strategic Plan or address issues that are not addressed in the Strategic Plan.

- A2. **Maintain Strategic Focus:** The 2001-2003 Strategic Planning Board encouraged the Town Council to continually seek issues which can be delegated to staff, boards or commissions, etc., to relieve the Town Council members of these issues and provide them with more time to address strategic issues.

Timeframe: Ongoing

- A4. **Boards and Commissions:** The Town Council will continuously monitor the performance of Town boards and commissions. When necessary, the Town Council will provide additional direction regarding the structure and/or function of each board or commission to ensure optimal performance of these appointed bodies and their individual members.

Timeframe: Ongoing.

Members of the Town Council attend various Board and Commission meetings. The Town Council also has called special meetings of the Boards for specific issues as they arise. The Town Council continues to receive an annual report from each Board at its monthly meetings.

- A5. **Public Communications:** Expand opportunities for public communication and involvement in Town governance, including the following:

- a) Continue to publish Town documents and information in an accessible, user-friendly form.

The Town Budget, CAFR and Annual Report are all published online.

The Recreation Department's two primary publications are the annual Recreation Update (for programs) mailed to all residential addresses in Town, and the Recreation Enterprise Fund Business Plan Report (a

summary of the organizational plan, highlights, outlook, and long-term financial plan), which is posted on the Town's website.

The Town's Comprehensive Plan is available on the website. The Planning, Zoning & Building Department continues to increase the number of forms and materials available to the public on the Town's website.

- b) Continue to expand use of cable TV Channel 18, Town web page, and other media for public information.
- c) Increase the number and variety of services available to citizens interactively on the Town's website.
- d) Provide an annual opportunity for broad public input regarding the implementation of this Strategic Plan and the emergence of new issues that are of strategic importance to the Town.

A press release was issued on February 16, 2010, soliciting input regarding the Strategic Plan for the Council's consideration when reviewing the Staff report of activities. This press release was also distributed to those residents who have registered with the Town to receive news releases.

- A6. **Flexibility and Responsiveness:** Continue the Town's policy of monitoring, evaluating, and changing policies and operations as dictated by changing needs and circumstances.

This practice does continue. It has been especially evident this past year in the actions taken by the Town to address the impacts of statewide property tax reform and the international financial crisis.

- A7. **Intergovernmental Relations:** Continue to build and maintain relationships with officials in neighboring municipalities and higher levels of government, enabling the Mayor, Town Council, and staff to effectively address issues that affect the Town but are beyond its jurisdiction.

The Town has placed considerable emphasis on this. Palm Beach, Palm Beach County and the Port of Palm Beach have re-activated the Tri-Party Coalition, and the Town of Palm Beach Shores has been added to what is now called the Lake Worth Inlet Coalition. Individual Council members are reaching out to various entities in efforts to build new relationships and maintain existing ones to assist in addressing issues outside of the Town's jurisdiction but affecting the Town.

The Town Council is working with Palm Beach County on taxation issues. The Council created a county budget task force for this purpose.

The Mayor continues to participate in League of Cities activities.

During the past year, PZB staff have coordinated and assisted Palm Beach County's Economic Development Office with a plan to establish a stronger "international financing" presence along the Royal Palm Way corridor.

Together with parallel assistance from jurisdictions throughout the County, PZB staff are now actively engaged with the Economic Council of Palm Beach County to identify issues and present solutions pertaining to the regulatory process in order to improve business development and economic growth within Palm Beach County.

- B1. **Vigilance:** Continue to focus vigilant attention upon the Town's vulnerabilities to certain types of crime.

The police department continually evaluates the effectiveness of various patrol methods such as park, walk and talk, the Marine and Motorcycle Patrol Units, and 11.5-hour patrol shifts to best address the vulnerabilities of the Town of Palm Beach.

- B2. **Communication:** Continue to ensure optimal communications between the Town's Police Department and County, State and Federal law enforcement agencies.

Various units including Organized Crime, Vice and Narcotics and key department personnel participate in ongoing intelligence gathering meetings and task force in order to maintain an open and cooperative exchange of communication.

- B3. **Excellence:** Provide for public recognition of, and continue to improve upon, the Town's excellent record in police protection including its rapid response time, low crime rates, anticipation of threats, etc.

The police department reviews response times and crime rates during annual allocations studies and monthly activity reports. Crime analysis is conducted daily as part of the department's daily command staff meetings.

- B4. **Monitoring and Evaluation:** To ensure that the Town's Police Department remains a national leader in law enforcement and security, continually measure actual performance against established goals, including:

- a) Maintain a favorable overall community approval rating for the performance of the Palm Beach Police Department as measured by the Palm Beach Police Department Citizen Satisfaction Survey.

The department completed a Citizen Satisfaction Survey in December 2008 and published a summary of results in January 2009. Overall, results indicate a high level of confidence and satisfaction by survey participants. These surveys are conducted every three years.

- b) Maintain departmental accreditation by the commission on Accreditation for Law Enforcement Agencies, Inc. (national) and the Commission for Florida Law Enforcement Accreditation, Inc. (state).

Maintaining accredited status is achieved by continuous self evaluation and on-site assessments occurring once every 3 years. The department's next on-site assessment is scheduled for December 2010.

- c) Maintain a crime clearance rate that is higher than the national average as measured by the Uniform Crime Index.

Department crime statistics are reported monthly as part of the department's Monthly Activity Report and compared to National Crime statistics during updates of the department's goals and objectives and the Town's Key Result Measures.

- B5. **Domestic Security:** Continuously update and apply anti-terrorism plans, in close coordination with other applicable government agencies.

The department participates in annual critical incident training exercises with other Town departments as well as other federal, state, and local law enforcement agencies.

- B6. **Community Relations:** Maintain and expand communications between the Police Department and the public, including continued sessions of the excellent Citizens' Police Academy program, Teen Police Academy program, and Crime Watch public education and community outreach programs.

The department's citizen academies continue to be filled to capacity and attended by enthusiastic residents and business owners, many of whom go on to participate in various department volunteer programs.

- B7. **Code Enforcement:** Promote compliance with ordinances with a special emphasis on the construction and landscape industries through education and increased enforcement.

In late 2009, volunteers were trained in code enforcement activities and initiatives and the Code Watcher volunteer program was created using members of the Volunteers in Police Services (VIPS) program. A program evaluation will be completed in late 2010 to determine the program's success and continuation.

- C1. **Additional Medical Services:** Encourage Good Samaritan Medical Center to implement a therapeutic hypothermia program for post cardiac arrest resuscitation patients. Encourage private or non-profit health care providers in efforts to expand the array of quality medical services available to Palm Beach residents, including:
- Additional local basic medical care clinic.
 - Full-fledged coronary and stroke units at Good Samaritan Medical Center.
 - State of the Art equipment and procedures that take full advantage of advancements in medical care.

Good Samaritan has implemented a fully functional therapeutic hypothermia program for post cardiac arrest resuscitation.

Good Samaritan Medical Center is a State recognized Level One Coronary Care Unit and a State recognized Primary Stroke Center.

Purchased new digital IV infusion pumps.

- C2. **EMS:** Provide for public recognition of, and continue to improve, the Town's state-of-the-art EMS facilities and training.

Instituted a Seasonal Influenza and Pandemic Influenza vaccination program.

- C3. **Monitoring and Evaluation:** To ensure that the Town's Fire-Rescue Department remains a national leader in emergency medical services, continually measure actual performance against established goals, including:

- a) Improve first due unit response time to all zones by ensuring arrival of the first due unit to all emergency incidents within four minutes or less 90% of the time.

Ongoing measurement and training to ensure compliance.

- b) During 2008, initiate planning phase for accreditation to be achieved by the year 2012.

Project has begun but completion may be delayed due to budget constraints.

- C4. **Community Relations:** Maintain and expand communications between the Fire-Rescue Department and the public, including future sessions of the excellent Citizens' Fire Academy program which was recently established.

Citizens Fire Academy scheduled to begin March 18th.

- D1. **Open Space and Beautification:** Continue Town policy of preserving existing open spaces and pursue opportunities for parks, beautification and open space enhancements including:

- a) Identify opportunities for expansion of open space and recreation areas.

The Town accepted the boarding house property on Park Avenue from a private property owner to be converted to a park. The building was demolished and landscape improvements are in the process of being completed.

ARCOM and LPC (with staff input) identify open space opportunities as development applications come before them for approval. They do this by asking for revisions to the site design to create more open space.

- b) Seek opportunities to retain open spaces during redevelopment of large estates.

Done on a continual basis as part of Architectural Commission (ARCOM) and Landmarks Preservation Commission (LPC) review and approval process.

- c) Whenever possible, take action to preserve large open green spaces that are privately owned (e.g. the three privately owned golf courses).

Done on a continual basis as part of Architectural Commission (ARCOM) and Landmarks Preservation Commission (LPC) review and approval process.

- D2. **Underground Utilities:** Pursue opportunities to place utilities underground, including the following:

- b) Investigate opportunities for Town coordinated projects to convert overhead facilities to underground service using available financing tools to reduce the annual cost to property owners within neighborhoods or select blocks in Town

wherein a majority of property owners have indicated a willingness to proceed with the necessary work at their own expense.

- D3. **Young Families:** Pursue community enhancements and other actions to attract, encourage and support young families. The Town recognizes the increasing recreational needs of younger families and has embraced its responsibility for meeting these needs. The implementation of a variety of new programs and events that promote parent and child participation, along with the expansion of activities targeting pre-school children has been the response to these needs. Staff will continue to evaluate programs to ensure that they are meeting the needs of Palm Beach's young families and make modifications and additions as needed.

The Recreation Department recognizes the increasing recreational needs of younger families and has embraced our responsibility for meeting these needs, through program evaluations, changes, enhancements, and program delivery methods.

- D4. **Cultural Institutions:** Nurture and encourage private cultural institutions in and near the Town to sustain and expand their services to the public.

The Town continues to fund the Four Arts Library.

- D5. **Nuisance Factor – Feral Cats:**

- a) Continue Town support of a feral cat program by enforcing applicable ordinances.

The Feral cat program run by Island Cats has effectively addressed complaints by residents and the feeders are completing their work without incident. We have had no issues related to enforcement and the program has done an admirable job in follow-up with residential/commercial questions. Town Council approved a \$25,000 Town contribution to Island Cats and authorized Island Cats to raise funds through the sale of commemorative bricks at the new Park Avenue park.

- E3. **Preparedness:** Conduct regular tabletop and field exercises to test and practice Town emergency plans.

Completed. In addition to the routine training conducted by the public safety departments, tabletop exercises also occurred in 2009 to test the effectiveness of the COOP.

- E4. **Coordination:** Provide for optimal coordination with County, State, and Federal emergency management agencies.

Emergency management staff is in regular contact with County, State and Federal agencies.

- E5. **Public Education:** Continue outreach to residents regarding how each can individually be better prepared for and effectively recover from a severe storm or other disaster.

Public education is promoted through the Town's website, seasonal press releases, media coverage, and emergency preparation information; post emergency advice is provided also. In addition, when called upon by Town organizations, expertise in the area of emergency management is provided through educational presentations.

- E6. **Human Resources:** Plan to utilize contractual services, temporary employees, and volunteers, as needed, to ensure a sufficient work force to accomplish post-disaster damage assessment, communication, and relief services.

The use of contractual services, temporary employees, and volunteers, as needed, is incorporated in the Comprehensive Emergency Management Plan (CEMP) and Storm Emergency Response Plan (SERP) for the Town.

- E7. **Building Code:** If the State permits, identify opportunities to strengthen the local building code to reduce risks of property damage.

Timeframe: Within one year of an applicable change in State laws.

The Building Division is monitoring proposed code changes and is following the state mandated three year code change cycle to identify all legally available opportunities to strengthen the local building code to reduce the risk of damage to persons or property.

- F1. **Water Supply --** Town will continue to work with the City of West Palm Beach and other parties in exploring the development of more reliable quantity and quality of water supply for town residents and businesses. The Town will also continue to explore alternative sources of irrigation water.

- G1. **Parking Regulations:** Monitor the numerous recent changes in parking regulations and parking enforcement techniques, and make additional modifications, as needed.

- G2. **Visitation Impacts:** Identify and implement techniques to mitigate the traffic impacts of visitation, including but not limited to: Alternative modes of convention visitor travel (shuttles, etc.) and tightened guidelines/restrictions on tour buses. Although shuttles and tour buses may reduce vehicular traffic among those intent on a visit to Palm Beach, they may also facilitate even greater visitation loads, while

incurring various traffic, noise and parking impacts associated with the accommodation of large vehicles. Therefore, these and other trade-offs associated with alternative means of travel for visitors should be investigated further.

- H1. **Neighborhood Impacts:** Limit impact of commercial encroachments on neighborhoods by continuing to require neighborhood impact assessment for all residential-to-commercial re-zonings and increases in commercial intensity.

Timeframe: Done on a continual basis as part of Architectural Commission (ARCOM) and Landmarks Preservation Commission (LPC) review and approval process.

- H2. **Commercial Development Limits:**

- (a) Review the adequacy of existing protective measures against unwanted forms of commercial development and add additional protections as necessary.

Timeframe: Any upcoming Zoning Season if so directed by Council

- (b) Explore ways to promote retention of small and independent Town-serving businesses.

Timeframe: Any upcoming Zoning Season if so directed by Council.

The Town eliminated the ability to develop formula/franchise restaurants in the Town. In addition, the Town created more flexible regulations for outdoor seating for small, take-out food establishments and restaurants in the Town. The Town is also in the process of evaluating the thirty-year-old Town-serving regulations to determine if the square footage threshold used to regulate Town-serving businesses needs to be modified based on a possible change in commercial tenant space sizes.

- H3. **Lake Worth Casino Area:** Regulate Town commercial uses and monitor City of Lake Worth commercial uses east of Lake Worth Bridge so as to protect the interests of South End Town residents.

Monitoring is performed on a continual basis (as needed) through Town participation in IPARC, and through coordinating with the City of Lake Worth.

- H4. **Royal Poinciana Area Master Planning:** Implement elements of the Royal Poinciana Area Citizens' Master Plan that are in the best interests of the Town of Palm Beach. All Palm Beach residents were invited to attend two public workshops held at The Breakers Hotel in March of 2009 to discuss possible changes to zoning regulations governing density, lot coverage, building height and parking. On-going work is now in process to amend both the Zoning Ordinance and the Town's Comprehensive Plan to allow for site-appropriate redevelopment. Any and all final changes will require Town Council approval.

Timeframe: Any upcoming Zoning Season if so directed by Council.

On-going work is now in process to amend both the Town's Comprehensive Plan and Zoning Ordinance to allow for site appropriate redevelopment in the Royal Poinciana Way area. The regulations are in the form of an overlay within the Commercial Town-serving Zoning District and are expected to be considered by the Town Council this year (2010).

- I1. **Neighborhood Scale:** Consider additional actions to maintain appropriate neighborhood scale and reduce the impact of large homes inconsistent in size and design with established neighborhood conditions.

Timeframe: Done on a continual basis as part of Architectural Commission (ARCOM) and Landmarks Preservation Commission (LPC) review and approval process.

- a) **Architectural Variety:** Promote the maintenance and modernization of existing homes (in lieu of "tear downs") through the judicious granting of variances and a flexible approach to architectural review. If tear-downs do prove necessary, give serious consideration to allowing reconstruction in the same footprint as a means of preserving neighborhood character and controlling density.

Done on a continual basis through staff coordination with property owners, and as part of Architectural Commission (ARCOM) and Landmarks Preservation Commission (LPC) review and approval process.

- I2. **Comprehensive Plan:** Review and update the Housing Element of the State-mandated Comprehensive Plan to assure that proper care is taken to protect residential neighborhoods of all kinds.

Timeframe: Any upcoming Zoning Season if so directed by Council.

Timeframe: Data & Analysis to be updated in 2010 – 2011; Goals, Objectives & Policies (GOPs) to be updated in 2013 as part of the Evaluation and Appraisal Report (EAR) process.

J1. Inlet Related Actions:

- a) Continue legal efforts to require the Federal government to compensate for beach losses resulted from the construction of the Lake Worth Inlet and the jetties.
- b) Pursue examination of cooperative effort with Port of Palm Beach and Palm Beach County for maintenance dredging.

Both of the above initiatives are continuing.

J7. Funding: Intensify lobbying efforts and continue to seek Federal, State, County, and other agency funding to support the Town's coastal management program. Continue seeking FEMA assistance with the erosional losses of the Town's engineered beaches related to storm events.

K1. Storm System Pump Station Renovation: Implement renovation program to assure continued reliability.

K2. Storm System Corrugated Metal Pipe Replacement: Complete replacement program.

Additional funding for this program is included in the recently approved accelerated capital improvement program. Expenditure of these funds is expected in FY 2012. Work will be ongoing until all lines are completed.

K3. Storm Sewer Collection System: Complete televising and repairing mains.

This program is a yearly function and once all the lines are televised, the program will be repeated.

K4. Sanitary System Gravity Line Improvements: Complete the ongoing lining of the sanitary system gravity lines.

Additional funding for this program is included in the recently approved accelerated capital improvement program. Expenditure of these funds is expected in FY 2012. Work will be ongoing until all lines are completed.

K5. Sanitary System Forcemain Replacement Program: Complete the design phase and begin implementation of a new multiyear program.

Funding for this program is included in the recently approved accelerated capital improvement program. A forcemain study was commissioned and

completed. Expenditure of these funds is expected in FY 2012. Work will be ongoing through 2020.

- K7. **Sanitary Sewer Lift Stations:** Implement renovation program to assure continued reliability.

Funding for this program is included in the recently approved accelerated capital improvement program. Work will be ongoing through 2026.

- L1. **Fund Balances:** Reassess and, as necessary, adjust Town policy regarding fund balances and reserves. Any proposals to reduce town reserves should be reviewed carefully for their implications on the Town's bond ratings. It is especially important during these times of property tax reform and economic uncertainty to have healthy reserves available to be able to accomplish projects and provide a cushion against a lower revenue base.
- L2. **Financing Methods:** Continue Town policy regarding decisions on long term vs. short term financing (bonds vs. "pay-as-you-go"), by applying case by case evaluations of options depending on nature of investment, competitive bond rates, equity for taxpayers, etc. Prepare an analysis of financing options for the 20-year CIP and coastal projects for consideration by Town Council.

An analysis of PAYGO vs. debt indicated that a shift to debt (to capture record low interest rates) would be in the Town's best interests. A 30 year bond was issued for \$40 million in CIP projects.

- L4. **Property Taxes:** Continue to monitor the State Legislature's proposals for property tax reform. Continue to be proactive in addressing the budgetary impacts of any new reform measures. Monitor all county property taxes.

Town monitored proposals from all governments regarding property taxes. The Town Council has formed a task force to work with the County on solutions for their taxes.

TO BE DETERMINED

- J4. **Coastal Protection Projects, Beach/Dune Nourishment with Structures:** Couple a small scale beach/dune nourishment with nearshore/offshore structures.

These projects and others are included in the 10-year plan proposed by the Shore Protection Board and accepted by the Town Council.

- J6. **Comprehensive Coastal Management Plan (CCMP) Update:** The CCMP update may include, but not be limited to, scope, timing, funding for future coastal

protection projects, and a long term financial plan for coastal projects. The Town Council requested that the Shore Protection Board provide a coastal program working plan for Staff to implement no later than November 2009.

Timeframe: Undetermined

The Shore Protection Board completed and Town Council accepted at their November 2009 meeting, a 10 year coastal projects work plan.

One element is to update the Comprehensive Coastal Management Plan, but no schedule has been set to complete a revision.

TOWN OF PALM BEACH

Town Council Meeting on: March 9, 2010

Section of Agenda

Regular Agenda - New Business

Agenda Title

Landmarks Preservation Commission Appointments.

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Memorandum dated February 26, 2010 from John S. Page, Director of Planning, Zoning & Building
- Ballot for Appointment of Regular Members to the Landmarks Preservation Commission
- Landmarks Preservation Commission Roster
- Landmarks Preservation Commission Terms of Office
- Attendance and Voting Conflict Records Landmarks Preservation Commission

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 9, 2010

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: Landmarks Preservation Commission Appointments

Date: February 26, 2010

STAFF RECOMMENDATION

- Staff recommends that the Town Council appoint a regular member to the Landmarks Preservation Commission to fill the seat being vacated as a result of the term expiration of Eugene Pandula.
- Staff recommends that the Town Council appoint a regular member to the Landmarks Preservation Commission to fill the seat being vacated as a result of the term expiration of Robert Eigelberger.
- Staff recommends that the Town Council appoint a regular member to the Landmarks Preservation Commission to fill the seat being vacated as a result of the term expiration of Charles S. Roberts.
- Staff recommends that the Town Council appoint a regular member to the Landmarks Preservation Commission to fill the seat being vacated as a result of the term expiration of Hazel Rubin.
- Staff recommends that the Town Council make any appointments to the Landmarks Preservation Commission which may become necessary as a result of making the aforementioned appointments.

GENERAL INFORMATION

- **Mr. Pandula** has served eight, one year terms as the “non-resident expert” on the Landmarks Preservation Commission. The “non-resident expert” may be appointed annually, and the individual appointed may serve an unlimited number of terms. As such, Mr. Pandula **is eligible for re-appointment** to the Landmarks Preservation Commission. Mr. Pandula has submitted written verification of his interest in continuing to serve on the Landmarks Preservation Commission.
- **Mr. Eigelberger** has served two full terms as a regular member on the Landmarks Preservation Commission and as such, **is not eligible for re-appointment.**
- **Mr. Roberts** has completed his first term as a member of the Landmarks Preservation Commission and **is eligible for re-appointment.** Mr. Roberts has submitted written verification of his interest in continuing to serve on the

Landmarks Preservation Commission Appointments

February 26, 2010

Page 2

Landmarks Preservation Commission.

- **Mrs. Rubin** has completed her first term as a regular member of the Landmarks Preservation Commission and **is eligible for re-appointment, but she has notified the Town, in writing, that she is not seeking re-appointment.**
- Existing alternate member(s) who are interested in promotion to regular member status have filed an Application for Service on the Landmarks Preservation Commission.
- Pursuant to the news release notifying the public of the upcoming vacancies on the Landmarks Preservation Commission, several persons have submitted Applications for Service on the Landmarks Preservation Commission together with other appropriate qualifying information.
- All applicants (except for the “non-resident expert” applicants) listed on the attached ballot(s) are registered voters in the Town of Palm Beach, as required by Section 54-36 (a) of the Town of Palm Beach Code of Ordinances.

SPECIAL CONSIDERATIONS

- As of the March 2010 term expirations, Joanna Golino will be the only architect remaining on the roster of the Landmarks Preservation Commission. Pursuant to Section 54-36, **“at least two members, but not more than three members, of such commission shall be registered architects in the state.”**
- Please note that three (3) of the applicants for the vacant seats on the Landmarks Preservation Commission are **“registered architects in the state”**. Those applicants are Eugene Pandula (applicant for non-resident expert seat), Patrick W. Segraves (applicant), and William P. Feldkamp (applicant).
- Pursuant to Section 54-36, **“Each member shall be a registered voter in the town, however, one member may be a non-resident of the town”**. Eugene Pandula (architect) is the only applicant for the non-resident seat.

At least one additional registered architect must be appointed to comply with local Code, but the Code actually allows for the appointment of two additional architects.

Attachments

JSP:cmd

cc: Joanna Cunningham, Town Clerk
Veronica Close, Assistant Director of Planning, Zoning & Building
John Lindgren, Planning Administrator

**BALLOT FOR APPOINTMENT OF REGULAR MEMBERS
TO THE LANDMARKS PRESERVATION COMMISSION**
Town Council Meeting on March 9, 2010

Position(s) to be filled:

- | | | |
|--------------------------|-----|--|
| | (1) | Non-Resident Member - Term to expire 3/2011
(Due to term expiration of Eugene Pandula) |
| 4 Regular Members | (3) | Resident Members - Terms to expire 3/2013
(Due to term expiration of Robert Eigelberger)
(Due to term expiration of Charles S. Roberts)
(Due to term expiration of Hazel Rubin) |

Please circle 4 name(s) from the list of names appearing below

Regular Members Applying for Re-appointment

Eugene Pandula	(ARCHITECT)	(Applying for 9 th Term as Non-Resident Expert Member)
Charles S. Roberts		(Completing Term 1 as a Regular Member)

Alternate Members Applying for Promotion to Regular Member*

(In order of seniority of membership)

Dudley L. Moore Jr.	(Serving Term 2 as an Alternate Member)
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Others Who Have Submitted Applications

Marion Albergo
Edward Austin Cooney
Leslie Diver
William P. Feldkamp **(ARCHITECT)**
Rachel Lorentzen
Patrick W. Segraves **(ARCHITECT)**
Steven Stolman
Lois Wideman

Signature of Town Council Member: _____

**Any currently serving Alternate who is not elevated to the position of Regular Member will retain his/her current position, provided that the Alternate Member's term is active.*

Ballot Form Date 2/26/2010

ADDRESS LIST - LANDMARKS PRESERVATION COMMISSION

PALM BEACH RESIDENCE

BUSINESS

SUMMER RESIDENCE

CHAIRMAN

Mr. Eugene Pandula
366 Colonial Road
West Palm Beach, FL 33405
818-0473

201 Seaview Avenue
Palm Beach, FL 33480
832-3614 655-9120 (Fax)

ARCHITECT

Vice Chairman

William Lee Hanley Jr.
250 Jungle Road
Palm Beach, FL 33480
835-4996 (Fax) 835-8663

Secretary

Charles S. Roberts
301 Australian Avenue #221
Palm Beach, FL 33480
(770) 856-5000

Robert T. Eigelberger
P.O. Box 6
Palm Beach, FL 33480
833-4501 (Fax) 833-9051

Hazel Rubin
2660 South Ocean Boulevard #303S
Palm Beach, FL 33480
540-5471 (Work) 917-975-2413

Joanna Golino
245 Seminole Avenue
Palm Beach, FL 33480
832-5382

ARCHITECT

William O. Cooley
8 Windsor Court
Palm Beach, FL 33480
844-0612

Alternate Commission Members

D. Imogene Willis
229 Orange Grove Road
Palm Beach, FL 33480
842-1467

Dudley L. Moore, Jr.
220 El Bravo Way
Palm Beach, FL 33480
833-2413

Wallace Rogers
235 Sunrise Avenue #2267
Palm Beach, FL 33480
659-7665 ext. 2267

Revised 7/16/2009

LANDMARKS PRESERVATION COMMISSION
MEMBERS AND TERMS OF OFFICE

<u>MEMBER</u>	<u>DATE OF T.C. MEETING WHEN APPOINTMENT OCCURRED</u>	<u>TERM EXPIRES</u>	
EUGENE PANDULA (Chairman)	3/14/95	3/1998	Term 1
<u>(ARCHITECT)</u>	3/10/98	3/2001	Term 2
	3/13/01	3/2004	Term 3
<u>(3/2002: Moved out of town, so resigned. Re-applied as NON-RESIDENT EXPERT and was appointed as such)</u>			
	3/12/02	3/2003	Term 1* (unlimited)
	3/11/03	3/2004	Term 2* (unlimited)
	3/9/04	3/2005	Term 3* (unlimited)
	3/8/05	3/2006	Term 4* (unlimited)
	3/14/06	3/2007	Term 5* (unlimited)
	3/13/07	3/2008	Term 6* (unlimited)
	3/11/08	3/2009	Term 7* (unlimited)
	3/10/09	3/2010	Term 8* (unlimited)
*May be re-appointed annually without term number limitation			
WILLIAM LEE HANLEY JR. (Vice Chairman)			
Promoted to regular member	3/8/05	3/2008	Term 1
Re-appointed	3/11/08	3/2011	Term 2
CHARLES S. ROBERTS (Secretary)	3/13/07	3/2010	Term 1
ROBERT T. EIGELBERGER	4/12/05	3/2007	Term 1*
*Completing the unexpired term of Jack Pym (Mr. Eigelberger will serve 23 mo., more than 50% of a term)			
Re-appointed	3/13/07	3/2010	Term 2
HAZEL RUBIN	3/13/07	3/2010	Term 1
JOANNA GOLINO	3/10/09	3/2012	Term 1
WILLIAM O. COOLEY	3/10/09	3/2012	Term 1

ALTERNATE MEMBERS (IN ORDER OF SENIORITY)

D. IMOGENE WILLIS	3/14/06	3/2009	Term 1
Re-appointed	3/10/09	3/2012	Term 2
DUDLEY L. MOORE JR.	3/13/07	3/2009	Term 1*
*Completing the unexpired term of Gail Coniglio (Mr. Moore will serve 2 yrs. which is more than 50% of a term)			
Re-appointed	3/10/09	3/2012	Term 2
WALLACE ROGERS	3/13/07	3/2009	Term 1*
*Completing the unexpired term of Hazel Rubin (Mr. Rogers will serve 2 yrs. which is more than 50% of a term)			
Re-appointed	3/10/09	3/2012	Term 2

Note: * Per Town Ordinance 8-99, any Commissioner may serve a maximum of three three-year terms as a full member
 * Per Town Ordinance 8-99, an alternate member may serve a maximum of three three-year terms as an alternate.
 * Per Town Ord. #8-99, non-resident expert permitted, one year terms, may be re-appt. annually.
 * Per Town Ord. #7-00, At least two, but not more than three members, shall be registered FL architects
 *Per Town Ord. #6-01, terms limitation taken back to two three-year terms; non-resident expert still re-appt. annually

Revised 3/23/09

TOWN OF PALM BEACH

LANDMARKS PRESERVATION COMMISSION

ATTENDANCE RECORD 2010

MEMBERS	1/10	2/11/10	2/10	3/10	4/10	5/10	6/10	7/10	8/10	9/10	10/10	11/10	12/10
Eugene Pandula	P	P	P	P	P	P	P	P	P	P	P	P	P
William Lee Hanley Jr.	P	U	P	P	P	P	P	P	P	P	P	P	P
Charles S. Roberts	P	P	P	P	P	P	P	P	P	P	P	P	P
Robert Eigelberger	P	U	P	P	P	P	P	P	P	P	P	P	P
Hazel Rubin	P	U	P	P	P	P	P	P	P	P	P	P	P
Joanna Golino	P	P	P	P	P	P	P	P	P	P	P	P	P
William Cooley	P	P	P	P	P	P	P	P	P	P	P	P	P
ALTERNATE MEMBERS	1/10	2/10	3/10	4/10	5/10	6/10	7/10	8/10	9/10	10/10	11/10	12/10	
D. Imogene Willis	P	A	P	P	P	P	P	P	P	P	P	P	P
Dudley L. Moore	P	U	P	P	P	P	P	P	P	P	P	P	P
Wallace Rogers	P	P	P	P	P	P	P	P	P	P	P	P	P

LEGEND: P=Present, E=Excused, U=Unexcused,A=Absence Pending Classification as "excused" or "unexcused"

LEGEND: P=Present, E=Excused, U=Unexcused, A=Absence Pending Classification as "excused" or "unexcused"

**TOWN OF PALM BEACH
LANDMARKS PRESERVATION COMMISSION**

ATTENDANCE RECORD 2009

MEMBERS	1/09	2/09	3/09	4/09	5/09	6/09	7/09	8/09	9/09	10/09	11/09	12/09
Eugene Pandula	P_	P_	P_	P_	P_	P_	U_	P_	P_	P_	P_	P_
William Lee Hanley Jr.	P_	P_	P_	P_	P_	P_	P_	P_	P_	P_	P_	P_
Patrick Segraves	P_	P_	P_	P_	P_	P_	P_	P_	P_	P_	P_	P_
Robert Eigelberger	P_	P_	P_	P_	P_	E_	P_	E_	E_	P_	P_	P_
Eileen Bresnan	P_	P_	P_	P_	P_	P_	P_	P_	P_	P_	P_	P_
Hazel Rubin	U_	P_	P_	P_	P_	P_	P_	A_	P_	P_	P_	P_
Charles S. Roberts	P_	P_	P_	P_	P_	P_	P_	P_	P_	P_	P_	P_
Joanna Golino	n/a_	n/a_	E_	P_	P_	P_	P_	P_	P_	P_	P_	P_
William Cooley	n/a_	n/a_	P_	P_	P_	P_	P_	P_	P_	P_	P_	P_

ALTERNATE MEMBERS	1/09	2/09	3/09	4/09	5/09	6/09	7/09	8/09	9/09	10/09	11/09	12/09
D. Imogene Willis	P_	P_	P_	P_	P_	P_	P_	E_	E_	P_	P_	P_
Dudley L. Moore	P_	P_	P_	P_	P_	P_	P_	P_	P_	P_	P_	U_
Wallace Rogers	P_	P_	P_	P_	P_	P_	P_	P_	P_	P_	P_	P_

LEGEND: P=Present, E=Excused, U=Unexcused, A=Absence Pending Classification as "excused" or "unexcused"

**TOWN OF PALM BEACH
LANDMARKS PRESERVATION COMMISSION**

ATTENDANCE RECORD 2008

MEMBERS	1/08	2/08	3/08	4/08	5/08	6/08	7/08	8/08	9/08	10/08	11/08	12/08
Eugene Pandula	P_	P_	P_	P_	P_	P_	P_	P_	P_	P_	P_	P_
William Lee Hanley Jr.	P_	P_	P_	P_	P_	P_	U_	P_	P_	P_	P_	P_
Patrick Segraves	P_	P_	P_	P_	P_	P_	P_	P_	P_	P_	A_	P_
Robert Eigelberger	P_	P_	E_	U_	P_	P_	P_	P_	P_	P_	A_	P_
Eileen Bresnan	P_	P_	P_	P_	P_	P_	U_	E_	P_	P_	P_	P_
Hazel Rubin	P_	P_	P_	P_	U_	P_	P_	P_	P_	P_	P_	P_
Charles S. Roberts	P_	P_	P_	P_	P_	P_	P_	P_	P_	P_	P_	P_
ALTERNATE MEMBERS	1/08	2/08	3/08	4/08	5/08	6/08	7/08	8/08	9/08	10/08	11/08	12/08
D. Imogene Willis	P_	P_	P_	P_	P_	P_	P_	P_	P_	P_	P_	P_
Dudley L. Moore	P_	P_	P_	P_	P_	P_	P_	P_	P_	P_	P_	A_
Wallace Rogers	P_	P_	P_	P_	P_	P_	P_	P_	P_	P_	P_	P_

LEGEND: P=Present, E=Excused, U=Unexcused, A=Absence Pending Classification as "excused" or "unexcused"

TOWN OF PALM BEACH

LANDMARKS PRESERVATION COMMISSION

RECORD OF VOTING CONFLICTS 2010

MEMBERS	1/10	2/10	3/10	4/10	5/10	6/10	7/10	8/10	9/10	10/10	11/10	12/10
Eugene Pandula	—	—	—	—	—	—	—	—	—	—	—	—
William Lee Hanley Jr.	—	—	—	—	—	—	—	—	—	—	—	—
Charles S. Roberts	—	—	—	—	—	—	—	—	—	—	—	—
Hazel Rubin	V	—	VPD	—	—	—	—	—	—	—	—	—
Robert Eigelberger	—	—	—	—	—	—	—	—	—	—	—	—
Joanna Golino	—	—	—	—	—	—	—	—	—	—	—	—
William Cooley	—	—	—	—	—	—	—	—	—	—	—	—
ALTERNATE MEMBERS	1/10	2/10	3/10	4/10	5/10	6/10	7/10	8/10	9/10	10/10	11/10	12/10
D. Imogene Willis	—	—	—	—	—	—	—	—	—	—	—	—
Dudley L. Moore	—	—	—	—	—	—	—	—	—	—	—	—
Wallace Rogers	—	—	—	—	—	—	—	—	—	—	—	—
LEGEND:	V	=	One Voting Conflict during a meeting	VPD	=	Voting Conflict Previously Declared						
	V2	=	Two Voting Conflicts during a meeting			(This category to be used when a conflict has						
	V3	=	Three Voting Conflicts during a meeting			Been declared at a previous meeting, and the						
						Changes being reviewed are part of an ongoing						
						project. ONLY COUNT ORIGINALDECLARED						
						CONFLICT PER JCR, TOWN ATTORNEY)						

**TOWN OF PALM BEACH
LANDMARKS PRESERVATION COMMISSION**

RECORD OF VOTING CONFLICTS 2009

MEMBERS	1/09	2/09	3/09	4/09	5/09	6/09	7/09	8/09	9/09	10/09	11/09	12/09
Eugene Pandula	—	—	—	—	—	—	—	—	—	—	—	—
William Lee Hanley Jr.	—	—	—	—	—	—	—	—	—	—	—	—
Robert Eigelberger	—	—	—	—	—	—	—	—	—	—	—	—
Hazel Rubin	—	—	—	—	—	—	—	—	—	—	—	—
Charles S. Roberts	—	—	—	—	—	V	—	—	—	—	—	—
Joanna Golino	—	—	—	—	—	—	—	—	—	—	—	—
William Cooley	—	—	—	—	—	—	—	—	—	—	—	—
Patrick Segraves & Eileen Bresnan (members through March): No conflicts												
ALTERNATE MEMBERS	1/09	2/09	3/09	4/09	5/09	6/09	7/09	8/09	9/09	10/09	11/09	12/09
D. Imogene Willis	—	—	—	—	—	—	—	—	—	—	—	—
Dudley L. Moore	—	—	—	—	—	—	—	—	—	—	—	—
Wallace Rogers	—	—	—	—	—	—	—	—	—	—	—	—
LEGEND:	V	=	One Voting Conflict during a meeting				VPD	=	Voting Conflict Previously Declared			
	V2	=	Two Voting Conflicts during a meeting						(This category to be used when a conflict has			
	V3	=	Three Voting Conflicts during a meeting						Been declared at a previous meeting, and the			
									Changes being reviewed are part of an ongoing			
									project. ONLY COUNT ORIGINALDECLARED			
									CONFLICT PER JCR, TOWN ATTORNEY)			

**TOWN OF PALM BEACH
LANDMARKS PRESERVATION COMMISSION**

RECORD OF VOTING CONFLICTS 2008

MEMBERS	1/08	2/08	3/08	4/08	5/08	6/08	7/08	8/08	9/08	10/08	11/08	12/08
Eugene Pandula	—	—	—	—	—	—	—	—	—	—	V	—
William Lee Hanley Jr.	—	—	—	—	—	—	—	—	—	—	—	—
Patrick Segraves	—	—	—	—	—	—	—	—	—	—	—	—
Robert Eigelberger	—	—	—	—	—	—	—	—	—	—	—	—
Eileen Bresnan	—	—	—	—	—	—	—	—	—	—	—	—
Hazel Rubin	—	—	—	—	—	—	—	—	—	—	—	—
Charles S. Roberts	—	—	—	—	—	—	—	V	VPD	—	—	—
<u>ALTERNATE MEMBERS</u>	<u>1/08</u>	<u>2/08</u>	<u>3/08</u>	<u>4/08</u>	<u>5/08</u>	<u>6/08</u>	<u>7/08</u>	<u>8/08</u>	<u>9/08</u>	<u>10/08</u>	<u>11/08</u>	<u>12/08</u>
D. Imogene Willis	—	—	—	—	—	—	—	—	—	—	—	—
Dudley L. Moore	—	—	—	—	—	—	—	—	—	—	—	—
Wallace Rogers	—	—	—	—	—	—	—	—	—	—	—	—
LEGEND:	V	=	One Voting Conflict during a meeting			VPD	=	Voting Conflict Previously Declared				
	V2	=	Two Voting Conflicts during a meeting					(This category to be used when a conflict has				
	V3	=	Three Voting Conflicts during a meeting					Been declared at a previous meeting, and the				
								Changes being reviewed are part of an ongoing				
								project. ONLY COUNT ORIGINALDECLARED				
								CONFLICT PER JCR, TOWN ATTORNEY)				

TOWN OF PALM BEACH

Town Council Meeting on: March 9, 2010

Section of Agenda

Regular Agenda - New Business

Agenda Title

Architectural Commission Appointments.

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Memorandum dated February 26, 2010, from John S. Page, Director of Planning, Zoning and Building
- Ballot for Appointment of Regular Members to the Architectural Commission
- Architectural Commission Roster
- Attendance and Voting Conflict Records for the Architectural Commission

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 9, 2010

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: Architectural Commission Appointments

Date: February 26, 2010

STAFF RECOMMENDATION

- Staff recommends that the Town Council appoint a regular member to the Architectural Commission to fill the seat being vacated as a result of the term expiration of William P. Feldkamp.
- Staff recommends that the Town Council appoint a regular member to the Architectural Commission to fill the seat being vacated as a result of the term expiration of Kenn Karakul.
- Staff recommends that the Town Council appoint a member to the Architectural Commission to fill the seat being vacated as a result of the term expiration of Robert J. Vila.
- Staff recommends that the Town Council appoint a member to the Architectural Commission to fill the seat which was vacated as a result of the resignation of Thomas M. Youchak.
- Staff recommends that the Town Council make any appointments to the Architectural Commission which may become necessary as a result of making the aforementioned appointments.

GENERAL INFORMATION

- **Mr. Feldkamp** has served two full terms as a regular member on the Architectural Commission and as such, **is not eligible for re-appointment.**
- **Mr. Karakul** has completed Term 0* (served only 9 months of a term, which is less than 50% of a term) as a regular member of the Architectural Commission and **is eligible for re-appointment.** Mr. Karakul has submitted written verification of his interest in continuing to serve on the Architectural Commission.
- **Mr. Vila** has completed his first term as an alternate member of the Architectural Commission and **is eligible for re-appointment.** Mr. Vila has submitted written verification of his interest in continuing to serve on the Architectural Commission.

Architectural Commission Appointments

February 26, 2010

Page 2

- **Mr. Youchak** had submitted a letter of resignation from the Architectural Commission dated November 11, 2009.
- Existing alternate member(s) who are interested in promotion to regular member status have filed an Application for Service on the Architectural Commission..
- Pursuant to the news release notifying the public of the upcoming vacancies on the Architectural Commission, several persons have submitted Applications for Service on the Architectural Commission together with other appropriate qualifying information.
- All applicants are registered voters in the town as required by Section 18-167 (b) Qualifications of Members.

SPECIAL CONSIDERATIONS

- As of the March 2010 term expirations, Jeffery W. Smith (regular member) and Nikita Zukov (alternate member) will be the architects remaining on the roster of the Architectural Commission. Pursuant to Section 18-166, **“at least two members, but not more than three members, of such commission shall be registered architects in the state. In addition to the two registered architects, one member of such commission shall be a landscape architect, if available. However, in the event a landscape architect is not available, then one member of such commission shall be a master gardener or someone with equivalent expertise in landscape.”**
- Please note that two (2) of the applicants for the vacant seats on the Architectural Commission are **“registered architects in the state”**. Those applicants are Nikita Zukov (seeking promotion to regular member status) and Eugene R. Fagan III (applicant). Ann Vanneck (seeking promotion to regular member status) currently serves as the member who is **“someone with equivalent expertise in landscape.”** None of the applicants are landscape architects or master gardeners.

Attachments

JP:cmd

cc: Joanna Cunningham, Town Clerk
Veronica Close, Assistant Director of Planning, Zoning and Building
John Lindgren, Planning Administrator

**BALLOT FOR APPOINTMENT OF REGULAR MEMBERS
TO THE ARCHITECTURAL COMMISSION**

Town Council Meeting on March 9, 2010

- Position(s) to be filled:
- (2) Regular Members - Terms to expire 3/2013
(Due to term expiration of William P. Feldkamp)
(Due to term expiration of Kenn Karakul)
 - (1) Regular Member - Term to expire 3/2012
(Due to resignation of Thoms M. Youchak)

Please circle 3 name(s) from the list of names appearing below

Regular Members Applying for Reappointment

Kenn Karakul (Completing Term 0*)
(*fulfilled the unexpired term of previous member - served less than 50% of a term)

Alternate Members Applying for Promotion to Regular Member

Ann L. Vanneck	(Serving Term 1 as an Alternate Member)
Robert J. Vila	(Completing Term 1 as an Alternate Member)
Nikita Zukov ARCHITECT	(Completing Term 1 as an Alternate Member)

Others Who Have Submitted Applications

Eugene R. Fagan III **ARCHITECT**
Martin D. Gruss
Margaret Kaywell
Peter I.C. Knowles, II
Steven Stolman

Signature of Town Council Member: _____

**Any currently serving Alternate who is not elevated to the position of Regular Member will retain his/her current position, provided that the Alternate Member's term is active.*

Ballot Form Date 2/26/2010

ARCHITECTURAL COMMISSION MEMBERS

	<u>Appointed</u>	<u>Term Expires</u>
William P. Feldkamp, Chairman 401 Peruvian Avenue #403 (h) 248-5769	3/2004 3/2007	3/2007 (Term 1) 3/2010 (Term 2)
Jeffery W. Smith, Vice-Chairman 241 Sanford Avenue (o) 832-0202	3/2006 3/2009	3/2009 (Term 1) 3/2012 (Term 2)
William J. Strawbridge Jr. 223 Atlantic Avenue #4E (h) 644-4873	3/2005 3/2008	3/2008 (Term 1) 3/2011 (Term 2)
Leslie C. Diver 216 Oleander Avenue (c) 309-5790	3/2006 3/2009	3/2009 (Term 1) 3/2012 (Term 2)
Vacant seat (formerly Youchak)	3/2009	3/2012
Samuel M. Boykin 285 Jamaica Lane (h) 863-9828	3/2008	3/2011 (Term 1)
Kenn Karakul 4 El Bravo Way (o) 379-5594 (h) 659-7612	6/2009	3/2010 (less than 50% of a term)
Robert J. Vila (Alternate) 690 Island Drive (o) (212)765-5656 (h) 651-1124	3/2008	3/2010 (Term 1)
Ann L. Vanneck (Alternate) 217 West Indies Drive (h) 881-5364	3/2008 3/2009	3/2009 (less than 50% of a term) 3/2012 (Term 1)
Nikita Zukov (Alternate) 130 Sunrise Avenue #408 (c) 452-2422	6/2009	3/2012 (Term 1)

Commissioners may serve a maximum of two three-year terms as regular members.

Rev. 2/23/2010/cmd

ARCOM ATTENDANCE RECORD 2010

MEMBERS

	1/10	2/10	3/10	4/10	5/10	6/10	7/10	8/10	9/10	10/10	11/10	12/10
WILLIAM FELDKAMP	P__	P__	__	__	__	__	__	__	__	__	__	__
WILLIAM STRAWBRIDGE	P__	P__	__	__	__	__	__	__	__	__	__	__
LESLIE DIVER	E__	U__	__	__	__	__	__	__	__	__	__	__
JEFFERY SMITH	U__	P__	__	__	__	__	__	__	__	__	__	__
SAM BOYKIN	P__	P__	__	__	__	__	__	__	__	__	__	__
KENN KARAKUL	P__	A__	__	__	__	__	__	__	__	__	__	__
ROBERT VILA	P__	P__	__	__	__	__	__	__	__	__	__	__
ANN VANNECK	P__	P__	__	__	__	__	__	__	__	__	__	__
NIKITA ZUKOV	P__	P__	__	__	__	__	__	__	__	__	__	__

LEGEND: P= present

E=excused absence

U=un excused absence

A=absence pending classification as excused or un excused

MEMBERS

1/28	2/25	3/25	4/22	5/29	6/23	7/21	8/26	9/23	10/28	11/20	12/18
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MEMBERS

[illegible]

LEGEND: P= present

E=excused absence

U=un excused absence

A=absence pending classification as excused or un excused

TOWN OF PALM BEACH ARCOM ATTENDANCE RECORD 2008

MEMBERS

1/23 2/27 3/26 4/23 5/28 6/25 7/23 8/27 9/24 10/22 11/21 12/19

<u>MORGAN DIX WHEELOCK</u>	P	E	P	P	P	P	P	P	P	P	P	P	P
<u>WILLIAM FELDKAMP</u>	P	P	P	P	P	P	P	P	P	P	P	P	P
<u>WILLIAM STRAWBRIDGE</u>	P	P	P	P	P	P	P	P	U	P	P	P	P
<u>LESLIE DIVER</u>	P	P	P	P	P	P	P	P	P	P	P	P	P
<u>THOMAS YOUCHAK</u>	P	P	P	P	P	P	P	P	P	P	P	P	P
<u>JEFFERY SMITH</u>	P	U	P	P	P	P	U	P	P	P	P	P	P
<u>SAM BOYKIN</u>	P	U	P	U	P	P	P	P	P	P	P	E	P
<u>KENN KARAKUL</u>	P	P	U	P	P	P	P	P	P	P	P	P	P
<u>ROBERT VILA</u>	/	/	U	P	P	P	P	P	U	P	P	P	P
<u>ANN VANNECK</u>	/	/	P	P	P	U	P	P	P	P	P	P	P
<u>NIKITA ZUKOV</u>	P	P	Term	Expired									

LEGEND: P= present

E=excused absence

U=unexcused absence

A=absence pending classification as excused or unexcused

ARCOM VOTING CONFLICTS 2010

MEMBERS

WILLIAM FELDKAMP

WILLIAM STRAWBRIDGE

LESLIE DIVER

JEFFERY SMITH

SAM BOYKIN

KENN KARAKUL

ROBERT VILA

ANN VANNECK

NIKITA ZUKOV

	1/10	2/10	3/10	4/10	5/10	6/10	7/10	8/10	9/10	10/10	11/10	12/10
WILLIAM FELDKAMP	—	—	—	—	—	—	—	—	—	—	—	—
WILLIAM STRAWBRIDGE	—	—	—	—	—	—	—	—	—	—	—	—
LESLIE DIVER	—	—	—	—	—	—	—	—	—	—	—	—
JEFFERY SMITH	—	—	—	—	—	—	—	—	—	—	—	—
SAM BOYKIN	—	—	—	—	—	—	—	—	—	—	—	—
KENN KARAKUL	—	—	—	—	—	—	—	—	—	—	—	—
ROBERT VILA	—	—	—	—	—	—	—	—	—	—	—	—
ANN VANNECK	—	—	—	—	—	—	—	—	—	—	—	—
NIKITA ZUKOV	—	—	—	—	—	—	—	—	—	—	—	—

LEGEND: V = one voting conflict during a meeting

V2 = two voting conflicts during a meeting

VPD = voting conflict previously declared

VPD to be used when a conflict has been declared at a previous meeting for an ongoing project.

The originally declared conflict will be counted only for ongoing projects, per JCR

Excessive conflicts of interest are defined as three or more conflicts of interest in any one calendar year

TOWN OF PALM BEACH ARCOM VOTING CONFLICT RECORD 2009

1/28 2/25 3/25 4/22 5/29 6/23 7/21 8/26 9/23 10/28 11/20 12/18

MEMBERS

	1/28	2/25	3/25	4/22	5/29	6/23	7/21	8/26	9/23	10/28	11/20	12/18
<u>MORGAN DIX WHEELLOCK</u>												
<u>WILLIAM FELDKAMP</u>												
<u>WILLIAM STRAWBRIDGE</u>												
<u>LESLIE DIVER</u>												
<u>THOMAS YOUCHAK</u>												
<u>JEFFERY SMITH</u>					VPD1							
					V2	VPD2						
<u>SAM BOYKIN</u>												
<u>KENN KARAKUL</u>												
<u>ROBERT VILA</u>												
<u>ANN VANNECK</u>												

LEGEND: V= one voting conflict during a meeting

V2= two voting conflicts during a meeting

VPD= voting conflict previously declared

VPD to be used when a conflict has been declared at a previous meeting for an ongoing project.

The originally declared conflict will be counted only for ongoing projects, per JCR

Excessive conflicts of interests are defined as three or more conflicts of interest in any one calendar year.

1/23	2/27	3/26	4/23	5/28	6/25	7/23	8/27	9/24	10/22	11/21	12/19
------	------	------	------	------	------	------	------	------	-------	-------	-------

MEMBERS									
MORGAN DIX WHEELLOCK	V		3V	VPD	VPD	VPD-V	VPD-V		
WILLIAM FELDKAMP						V	VPD		
WILLIAM STRAWBRIDGE		V	VPD			V	VPD		
LESLIE DIVER									
THOMAS YOUCHAK									
JEFFERY SMITH				V				VPD	
KENN KARAKUL									
SAM BOYKIN				V					
ROBERT VILA									
ANN VANNECK				V					

NIKITA ZUKOV / / Term expired

LEGEND: V= one voting conflict during a meeting

V2= two voting conflicts during a meeting

VPD= voting conflict previously declared

VPD to be used when a conflict has been declared at a previous meeting for an ongoing project.

The originally declared conflict will be counted only for ongoing projects, per JCR

Excessive conflicts of interests are defined as five or more conflicts of interest in any one calendar year.

TOWN OF PALM BEACH

Town Council Meeting on: March 9, 2010

Section of Agenda

Ordinances - Second Reading

Agenda Title

ORDINANCE NO. 5-10 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 82 of the Town Code of Ordinances at Subdivision IV, Police Officers, Section 82-110(c), Police Officer Board of Trustees, to Provide for Quarterly Meetings; Amending Section 82-111, Term of Office, to Provide for Staggered Terms; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.

Presenter

William Hanes, Pension Administrator

Supporting Documents

- Ordinance No. 5-10

ORDINANCE NO. 5-10

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 82 OF THE TOWN CODE OF ORDINANCES AT SUBDIVISION IV, POLICE OFFICERS, SECTION 82-110(c), POLICE OFFICER BOARD OF TRUSTEES, TO PROVIDE FOR QUARTERLY MEETINGS; AMENDING SECTION 82-111, TERM OF OFFICE, TO PROVIDE FOR STAGGERED TERMS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS the Board of Trustees of the Police Officer Pension has recommended amending the retirement system to improve efficiency and to retain experienced trustees; and

WHEREAS the actuary for the retirement system has certified that there is no actuarial impact to this ordinance.

THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

Section 1. The Code of Ordinances of the Town of Palm Beach is hereby amended at

Chapter 82, Personnel, Subdivision IV, Police Officers, Section 82-110(c), to read as follows:

Sec. 82-110. Police officer board of trustees.

(c) The police officer board shall meet at least ~~bi-monthly~~ quarterly, shall adopt its own rules of procedure and shall keep records of its proceedings. Three trustees shall constitute a quorum at any meeting of the board, and at least three concurring votes shall be necessary for a decision by the board. Each trustee shall be entitled to one vote on each question before the board. The trustees shall not receive any compensation but may receive expenses and per diem as provided by state law.

Section 2. The Code of Ordinances of the Town of Palm Beach is hereby amended at

Chapter 82, Personnel, Subdivision IV, Police Officers, Section 82-111(a), to read as follows:

Sec. 82-111. Term of office; oath of office; vacancy.

(a) The regular term of office of member-elected trustees of the police officer board and appointed trustees shall be two years and they may succeed themselves in office. Terms of office shall be staggered to provide for the selection once every two (2) years of one elected trustee and one appointed trustee.

Section 3. Application of new staggered terms of office.

The new staggered election cycle shall take effect beginning at the next election. One elected trustee and one appointed trustee shall be randomly selected by lot at a public meeting to serve an initial term of two years. Thereafter, all trustees shall serve regular four year terms.

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 on the date of passage upon second and final reading unless

otherwise provided herein.

PASSED AND ADOPTED in a regular, adjourned session on first reading this ____ day of _____, 2010, and for a second and final reading on this ____ day of _____, 2010.

Jack McDonald, Mayor

David A. Rosow, Council President

Gail Coniglio, President Pro Tem

William J. Diamond, Council Member

ATTEST:

Richard M. Kleid, Council Member

Joanna Cunningham, Town Clerk

Robert N. Wildrick, Council Member

TOWN OF PALM BEACH

Town Council Meeting on: March 9, 2010

Section of Agenda

Ordinances - Second Reading

Agenda Title

ORDINANCE NO. 6-10 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Providing for an Amendment to the Town's Budgets Adopted for the Fiscal Year Commencing October 1, 2009, Providing an Effective Date.

Presenter

Jane Struder, Director of Finance

Supporting Documents

- Ordinance No. 6-10
- Exhibits A - E

ORDINANCE NO. 6-10

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF
PALM BEACH, PALM BEACH COUNTY, FLORIDA, PROVIDING
FOR AN AMENDMENT TO THE TOWN'S BUDGETS ADOPTED
FOR THE FISCAL YEAR COMMENCING OCTOBER 1, 2009,
PROVIDING AN EFFECTIVE DATE.**

WHEREAS, it was necessary for the Town of Palm Beach to adopt budgets for the fiscal year commencing October 1, 2009; and

WHEREAS, the Town Council of the Town of Palm Beach, Florida, deems it necessary and appropriate to amend said budgets to provide appropriations adequate for the authorization of expenditures necessary for conducting Town operations for the fiscal year ending September 30, 2010; and

WHEREAS, the budget amendment is necessary to record the bond proceeds and fund the costs associated with the Worth Avenue Assessment District project; and

WHEREAS, the budget amendment is necessary to record the bond proceeds and fund the capital expenditure costs associated with the proceeds from the 2010A Bond issue; and

WHEREAS, the budget amendment is necessary to record the bond proceeds and fund the FY2010 debt service payments associated with the 2010A and 2010B Bonds; and

WHEREAS, the budget amendment is necessary to fund unanticipated costs associated with the Coastal Protection Fund; and

WHEREAS, the Town Council must take action to put in place an ordinance to amend the budget.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE
TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:**

Section 1. The foregoing recitals are hereby ratified and confirmed.

Section 2. The Town of Palm Beach Capital Fund Budget for the fiscal year commencing October 1, 2009, is hereby amended and adopted pursuant to the attached Exhibits "A - E", attached hereto and made a part of this ordinance.

Section 3. Effective Date. This ordinance shall take effect immediately upon 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 9th day of February, 2010, and for second and final reading on this 9th day of March, 2010.

Jack McDonald, Mayor

David A. Rosow, Town Council President

Gail Coniglio, Town Council President Pro Tem

William J. Diamond, Town Council Member

ATTEST:

Richard M. Kleid, Town Council Member

Joanna Cunningham, Town Clerk

Robert N. Wildrick, Town Council Member

Town of Palm Beach, Florida
Capital Fund Bond Proceeds Revenues and Expenditures
Budget Amendment
October 1, 2009 through September 30, 2010

	Adopted Budget FY2010	Ordinance No. 6-10 Amendment	Amended Budget FY2010
Revenues			
Investment Earnings	0		0
Proceeds from Bond Issue	0	40,500,000	40,500,000
Total Revenues	0	40,500,000	40,500,000
Expenditures			
Projects	0	40,300,000	40,300,000
Note Issuance Costs/Interest	0	200,000	200,000
Contingency	0		0
Total Expenditures	0	40,500,000	40,500,000
 Revenues Over/(Under) Expenditures	 0		 0
 Beginning Fund Equity	 <u>0</u>		 <u>0</u>
 Ending Fund Equity	 <u>0</u>		 <u>0</u>

Town of Palm Beach, Florida
Worth Avenue Capital Fund Bond Proceeds Revenues and Expenditures
Budget Amendment
October 1, 2009 through September 30, 2010

	Adopted Budget FY2010	Ordinance No. 6-10 Amendment	Amended Budget FY2010
Revenues			
Investment Earnings	0		0
Proceeds from Bond Issue	0	14,600,000	14,600,000
Total Revenues	0	14,600,000	14,600,000
Expenditures			
Projects	0	14,500,000	14,500,000
Note Issuance Costs/Interest	0	100,000	100,000
Contingency	0		0
	0	14,600,000	14,600,000
Revenues Over/(Under) Expenditures	0		0
Beginning Fund Equity	<u>0</u>		<u>0</u>
Ending Fund Equity	<u>0</u>		<u>0</u>

Town of Palm Beach, Florida
2010A Bond Debt Service Fund Revenues and Expenditures
Budget Amendment
October 1, 2009 through September 30, 2010

	Adopted Budget FY2010	Ordinance No. 6-10 Amendment	Amended Budget FY2010
Revenues			
Investment Earnings	0		0
Proceeds from Bond Issue	0	1,100,000	1,100,000
Total Revenues	0	1,100,000	1,100,000
Expenditures			
Debt Service Principal	0	0	0
Debt Service Interest	0	1,100,000	1,100,000
Bond Costs	0		0
Total Expenditures	0	1,100,000	1,100,000
Revenues Over/(Under) Expenditures	0		0
Beginning Fund Equity	<u>0</u>		<u>0</u>
Ending Fund Equity	<u>0</u>		<u>0</u>

Town of Palm Beach, Florida
2010B Bond Debt Service Fund Revenues and Expenditures
Budget Amendment
October 1, 2009 through September 30, 2010

	Adopted Budget FY2010	Ordinance No. 6-10 Amendment	Amended Budget FY2010
Revenues			
Investment Earnings	0		0
Proceeds from Bond Issue	0	250,000	250,000
Total Revenues	0.00	250,000.00	250,000.00
Expenditures			
Debt Service Principal	0	0	0
Debt Service Interest	0	250,000	250,000
Bond Costs	0		0
Total Expenditures	0	250,000	250,000
Revenues Over/(Under) Expenditures	0		0
Beginning Fund Equity	<u>0</u>		<u>0</u>
Ending Fund Equity	<u>0</u>		<u>0</u>

Town of Palm Beach, Florida
Comprehensive Coastal Management Project Fund
Budget Amendment
October 1, 2009 through September 30, 2010

	Adopted Budget FY2010	Ordinance No. 6-10 Amendment	Amended Budget FY2010
Revenues			
Investment Earnings	120,000	0	120,000
Transfer from CCMP	944,182		944,182
FEMA/Grant Reimbursements	3,013,900	300,000	3,313,900
Total Revenues	4,078,082	300,000	4,378,082
Expenditures			
Monitoring	687,480		687,480
Projects	7,095,520	365,000	7,460,520
Total Expenditures	7,783,000	365,000	8,148,000
 Revenues Over/(Under) Expenditures	 (3,704,918)		 (3,769,918)
 Beginning Fund Balance	 <u>4,442,796</u>		 <u>4,442,796</u>
 Ending Fund Balance	 <u>737,878</u>		 <u>672,878</u>

TOWN OF PALM BEACH

Town Council Meeting on: March 9, 2010

Section of Agenda

Ordinances - First Reading

Agenda Title

TOWN ATTORNEY JOHN RANDOLPH IS WORKING ON THIS ITEM AND MAY REQUEST A DEFERRAL TO THE APRIL 13, 2010.

Presenter

John C. Randolph, Town Attorney

Supporting Documents

- NONE

TOWN OF PALM BEACH

Town Council Meeting on: March 9, 2010

Section of Agenda

Ordinances - First Reading

Agenda Title

ORDINANCE NO. 9-10 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 82 of the Town Code of Ordinances at Subdivision III, Firefighters, Section 82-90(c), Firefighter Board of Trustees, to Provide for Quarterly Meeting; Amending Section 82-91, Term of Office, to Provide for Staggered Terms; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.

Presenter

Peter B. Elwell, Town Manager

Supporting Documents

- Memorandum dated February 23, 2010, from William P. Hanes
- Ordinance No. 9-10
- Letter dated February 22, 2010

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 9, 2010

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: William P. Hanes, Administrator for the Firefighter Board of Trustees

Re: Amendment to Ordinance 82-90(c) and 82-91(a)
Ordinance No. 9-10

Date: February 23, 2010

STAFF RECOMMENDATION

Staff recommends that the Town Council adopt Ordinance No. 9-10 amending Sections 82-90(c) and 82-91(a) to authorize elected and appointed trustees to the Town of Palm Beach Firefighter Board of Trustees to serve in two year staggered terms and to require quarterly meetings of the board.

BOARD RECOMMENDATION

The Town of Palm Beach Firefighter Board of Trustees recommends that the Town Council adopt the ordinance amending Sections 82-90(c) and 82-91(a) to authorize elected and appointed trustees to the Town of Palm Beach Firefighter Board of Trustees to serve in two year staggered terms and to require quarterly meetings of the board.

GENERAL INFORMATION

The current election cycle of trustees to the Firefighter Board of Trustees is based on a two year term for all elected and appointed trustees. The trustees have determined that a complete turnover of the Board at one time would not be in the best interest of the members of the plan or the Town. The trustees believe that staggering the terms of office would lead to greater institutional knowledge of the plan, and better serve the members and the Town.

Chapter 175 of the Florida Statutes requires trustees to meet on a quarterly basis. It has been the practice of all Town of Palm Beach retirement boards to meet on a quarterly basis. The current Code requires bi-monthly meetings. The Board of Trustees believes it is necessary to change the Code to be in compliance with Florida law.

FUNDING/FISCAL IMPACT

The actuary has determined that passage of the amendments will have no cost.

TOWN ATTORNEY REVIEW

Ordinance No. 9-10 was drafted, reviewed and approved by Bonni Jensen, Attorney to the Firefighters Retirement Board of Trustees. Ms. Jensen has submitted a letter dated February 22, 2010, for the record (attached).

Attachments: letter by Ms. Jensen

ORDINANCE NO. 9-10

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 82 OF THE TOWN CODE OF ORDINANCES AT SUBDIVISION III, FIREFIGHTERS, SECTION 82-90(c), FIREFIGHTER BOARD OF TRUSTEES, TO PROVIDE FOR QUARTERLY MEETINGS; AMENDING SECTION 82-91, TERM OF OFFICE, TO PROVIDE FOR STAGGERED TERMS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of Trustees of the Firefighters Board of Trustees, Town of Palm Beach Retirement System has recommended amending the retirement system to improve efficiency and to retain experienced trustees; and

WHEREAS, the actuary for the retirement system has certified that there is no actuarial impact to this ordinance.

THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

Section 1. The Code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 82, Personnel, Subdivision III, Firefighters, Section 82-90(c), to read as follows:

Sec. 82-90. Firefighter board of trustees.

* * *

(c) The firefighter board shall meet at least ~~bi-monthly~~ **quarterly**, shall adopt its own rules of procedure and shall keep records of its proceedings. Three trustees

shall constitute a quorum at any meeting of the board, and at least three concurring votes shall be necessary for a decision by the board. Each trustee shall be entitled to one vote on each question before the board. The trustees shall not receive any compensation but may receive expenses and per diem as provided by state law.

Section 2. The Code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 82, Personnel, Subdivision III, Firefighters, Section 82-91(a), to read as follows:

Sec. 82-91. Term of office; oath of office; vacancy.

(a) The regular term of office of member-elected trustees of the firefighter board and appointed trustees shall be two years and they may succeed themselves in office. **Terms of office shall be staggered to provide for the selection once every two years of one elected trustee and one appointed trustee.**

Section 3. Application of new staggered terms of office.

The new staggered election cycle shall take effect beginning at the next election. One elected trustee and one appointed trustee shall be randomly selected by lot at a public meeting to serve an initial term of two years. Thereafter, all trustees shall serve regular two year terms.

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 on the date of passage upon second and final reading unless otherwise provided herein.

PASSED AND ADOPTED in a regular, adjourned session on first reading this 9th day of March, 2010, and for a second and final reading on this ____ day of _____, 2010.

Jack McDonald, Mayor

David A. Rosow, Council President

Gail Coniglio, President Pro Tem

William J. Diamond, Council Member

ATTEST:

Richard M. Kleid, Council Member

Joanna Cunningham, Town Clerk

Robert N. Wildrick, Council Member

THE LAW OFFICES OF
PERRY & JENSEN, LLC

ANN H. PERRY
aperry@perryjensenlaw.com

February 22, 2010

BONNI SPATARA JENSEN
bsjensen@perryjensenlaw.com

VIA EMAIL TRANSMISSION

Peter Elwell, Town Manager
Town of Palm Beach
360 South County Road, 2nd Floor
Palm Beach, Florida 33480

Re: Firefighter Board of Trustees of the Town of
Palm Beach Retirement System
Proposed Amendment
Our File No.: 1117.0050

Dear Mr. Elwell:

This firm provides legal counsel to the Firefighter Board of Trustees of the Town of Palm Beach Retirement System.

Enclosed is a proposed amendment to the Firefighter Pension Plan as summarized below and provides as follows:

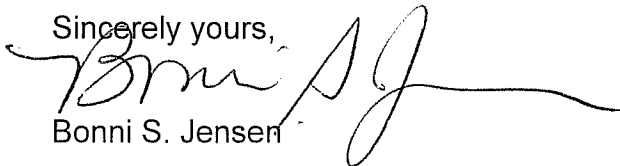
1. **Section 82-90(c)** is hereby amended to allow for quarterly meetings of the Board of Trustees. This change conforms to the practice of the Board and meets the requirements of state law.
2. **Section 82-91(a)** is hereby amended to provide for staggering terms for the Trustees of the Board. This change will allow for continuity of trustees. Currently all of the Trustee terms end at the same time. This situation has the potential for a complete or substantially complete turnover of the Trustees. The staggered terms would provide for the continuance of at least two of the Trustees.

Please place this item on the Town Council agenda for consideration at your next meeting.

If you have any questions regarding this matter, please do not hesitate to contact me. Thank you for your assistance.

Sincerely yours,

Bonni S. Jensen



BSJ/adt
Enclosure
ECopy: Board of Trustees
Bill Hanes, Administrator

H:\PB FF 1117\TOWNMANAGER - Elwell\2010-02-10 - Council - Elwell - Mtgs & Stag Tms Cvr.wpd

WILLIAM O. COOLEY

8 Windsor Court
Palm Beach, Florida 33480

Mayor Jack McDonald
Members of the Palm Beach Town Council
360 South County Road
Palm Beach, Florida 33480

March 8, 2010

Dear Mayor and Councilmembers,

I would like to take this opportunity to address some of the issues that have been raised regarding the actions taken by the Landmarks Preservation Commission ("Landmarks") over the past few months. These are the observations of one member of Landmarks.

When the Sterling Application for a Certificate of Appropriateness was originally sent to Landmarks, there was a lot of discussion regarding the effect that the hearing could have on the legal liability or legal standing of the Town.

There were questions about the hearing triggering "further development possibilities" as set out in paragraph 3 on page 5 of the 1979 Agreement; there were questions about the effects of the hearing relative to the Bert Harris Act; there were questions about the outcome of the hearing being possibly considered a "development order" under Chapter 163 of the Florida Statutes; and, there were general discussions about lawsuits and liability that the Town would be facing...regardless of the outcome.

After a lengthy discussion and several motions and/or amended motions, I made the motion to return this matter to the council and ask for legal counsel and further guidance. When the council heard the matter at the following council meeting, the council correctly recognized the risk that the town would be placed in by having Landmarks hear this matter without some type of additional legal protection. While the council did not approve outside counsel, they asked for and received assurance from Sterling that Sterling would enter into an agreement that would alleviate the Town's and Landmarks concern over the three items mentioned in the preceding paragraph.

One might criticize Landmarks for referring the matter back to the council, but the new council action taken at the January meeting of requiring this new agreement between Sterling and the Town, was a very important step in limiting the Town's liability.

(I believe it is important to give Mr. Lee Munder credit for his actions and words during this process. After the meeting where I made the motion to send the matter back to the council asking for legal assistance, Mr. Munder walked up to me and said, "it was the right thing to do....I would have done the same thing." Ordinarily, I wouldn't mention a private conversation of this type, but Mr. Munder was quoted as saying substantially the same thing in the Palm Beach Daily News the following morning. He grew two feet in my eyes that day and proved to me that he was a Palm Beacher first.)

Page 3.

hearing on successive days until it was concluded. This way we could guarantee Sterling a hearing, and continue it if necessary, and render a decision, before the April 30 deadline. He told me that the procedures allowed for that.

A hearing would be held, and decision made, before the April 30 deadline was reached. Landmarks was ready, willing, and able to provide that for the applicant.

In closing, there has been a lot written in the paper lately about "civility" or the lack of it. I personally don't think that accusations that "the legal process was hijacked" by certain members of the Landmarks Preservation Commission; or members of Landmarks had, "prejudged the application," or the applicant wasn't "going to get a fair hearing," are at all helpful in this process and don't contribute to the civility for which we are searching.

Other than setting the Town and Landmarks members up for litigation, terms like "non-action" serve no useful purpose, particularly when they are not accurate.

If you will remember, Councilman Denis Coleman told the applicant, don't bring back condominiums on the water, "it's a non-starter." Councilman Kleid has said he prefers 3-story instead of 5-story condominiums. Council President Rosow has written in the editorial page that he favors tearing down the theater. Everybody in this town has an opinion on this project.

But, the opinions must be disregarded when the hearing starts. We must listen to the evidence presented at the hearing, ask questions, apply the ordinances, and cast a vote. This process will only be complicated and tainted by removing members from the Landmarks Commission whom certain members of the council feel may not vote the way they like and replacing them with those who would "vote right."

This would send a chilling message to all boards and commissions of the Town, "you can't vote your conscience...you must vote the way certain council members wish." I don't think that is the message Palm Beach wants to broadcast.

I served on the Strategic Planning Board from March of 2001 to April of 2003. Lesly Smith was the Mayor and Chairman of the Strategic Planning Board, and Jack McDonald was the Council President at the time. I served with Mr. Bruce McAlister, Mr. Alec Flamm and the late Mr. William Watchman. There were disagreements on that board but there was not a time when the council would have even thought about removing members because they thought they may vote "incorrectly."

The purpose of independent boards and commissions is to get the thoughts and input from a wide range of participants from the community, not to "rubber stamp" the wishes of some on the council.

Re: Landmark Preservation Commission Application

sstolman

to:

croberts, jmcdonald, drosow, gconiglio, WDiamond, rkleid, rwildrick

03/04/2010 10:41 AM

Cc:

dar, david.rosow, robertwildrick, Kleid561, wjd2332, gailconig1, pelwell, jrandolph, srandolph, jpage, jcunningham, wendyvictor, HGR36, council

Show Details

Gentle Neighbors,

I have spoken to Mr. Randolph personally to insure him that I am unfettered by this attack. And while I am usually hesitant to even acknowledge the stuff of Mr. Levine's email (who, by the way, I do not know,) I guess I must invoke the time-honored declaration of "I am not now, nor have I ever been," on the payroll of the Sterling Organization.

With humility but perhaps a little pride, I hope that the rest of my ability to be of service to our town speaks for itself.

Sincerely,

Steven Stolman

-----Original Message-----

From: Charlie Roberts <croberts@robertspropertiesinc.com>

To: jmcdonald@townofpalmbeach.com; drosow@townofpalmbeach.com; gconiglio@townofpalmbeach.com; WDiamond@TownofPalmBeach.com; rkleid@townofpalmbeach.com; rwildrick@townofpalmbeach.com

Cc: 'David A Rosow' <dar@rosow.com>; david.rosow@rosow.com; robertwildrick@hotmail.com; Kleid561@aol.com; wjd2332@aol.com; gailconig1@aol.com; pelwell@townofpalmbeach.com; jrandolph@jones-foster.com; srandolph@townofpalmbeach.com; jpage@townofpalmbeach.com; jcunningham@townofpalmbeach.com; wendyvictor@msn.com; HGR36@aol.com; sstolman@aol.com; council@townofpalmbeach.com

Sent: Thu, Mar 4, 2010 10:08 am

Subject: Landmark Preservation Commission Application

Please see attached letter.

Sincerely,

Charles S. Roberts

Re: Landmark Preservation Commission Application

Wendy Victor

to:

croberts, jmcdonald, drosow, gconiglio, WDiamond, rkleid, rwildrick, sstolman

03/04/2010 11:18 AM

Cc:

dar, david.rosow, robertwildrick, Kleid561, wjd2332, gailconig1, pelwell, jrandolph, srandolph, jpage, jcunningham, HGR36, council

Show Details

And of course I am not, either.

Wendy Victor

----- Original Message -----

From: sstolman@aol.com

To: croberts@robertspropertiesinc.com ; jmcdonald@townofpalmbeach.com ; drosow@townofpalmbeach.com ; gconiglio@townofpalmbeach.com ; WDiamond@TownofPalmBeach.com ; rkleid@townofpalmbeach.com ; rwildrick@townofpalmbeach.com

Cc: dar@rosow.com ; david.rosow@rosow.com ; robertwildrick@hotmail.com ; Kleid561@aol.com ; wjd2332@aol.com ; gailconig1@aol.com ; pelwell@townofpalmbeach.com ; jrandolph@jones-foster.com ; srandolph@townofpalmbeach.com ; jpage@townofpalmbeach.com ; jcunningham@townofpalmbeach.com ; wendyvictor@msn.com ; HGR36@aol.com ; council@townofpalmbeach.com

Sent: Thursday, March 04, 2010 10:40 AM

Subject: Re: Landmark Preservation Commission Application

Gentle Neighbors,

I have spoken to Mr. Randolph personally to insure him that I am unfettered by this attack. And while I am usually hesitant to even acknowledge the stuff of Mr. Levine's email (who, by the way, I do not know,) I guess I must invoke the time-honored declaration of "I am not now, nor have I ever been," on the payroll of the Sterling Organization.

With humility but perhaps a little pride, I hope that the rest of my ability to be of service to our town speaks for itself.

Sincerely,
Steven Stolman

-----Original Message-----

From: Charlie Roberts <croberts@robertspropertiesinc.com>

To: jmcdonald@townofpalmbeach.com; drosow@townofpalmbeach.com; gconiglio@townofpalmbeach.com; WDiamond@TownofPalmBeach.com; rkleid@townofpalmbeach.com; rwildrick@townofpalmbeach.com

Cc: 'David A Rosow' <dar@rosow.com>; david.rosow@rosow.com; robertwildrick@hotmail.com; Kleid561@aol.com; wjd2332@aol.com; gailconig1@aol.com; pelwell@townofpalmbeach.com; jrandolph@jones-foster.com; srandolph@townofpalmbeach.com; jpage@townofpalmbeach.com; jcunningham@townofpalmbeach.com; wendyvictor@msn.com; HGR36@aol.com; sstolman@aol.com; council@townofpalmbeach.com

Sent: Thu, Mar 4, 2010 10:08 am

Subject: Landmark Preservation Commission Application

Please see attached letter.

Sincerely,
Charles S. Roberts



Fw: distribute to Town Council
Peter B Elwell to: Cheryl Kleen

03/07/2010 08:51 AM

History:

This message has been forwarded.

Cheryl -

Please put this in the purple folders.

Thanks,
Peter

----- Forwarded by Peter B Elwell/PalmBeach on 03/07/2010 08:51 AM -----

From: Anne Pepper <annepepper@mac.com>
To: Peter Elwell <pelwell@townofpalmbeach.com>
Date: 03/05/2010 05:09 PM
Subject: distribute to Town Council

Dear Town Council,

You will be selecting up to 4 seats on the Landmarks Preservation Commission next week. Some council members have spoken of both the importance of objectivity and of the desirability for those seeking office to have not made public their opinions on various issues concerning the town. With this view in mind, it seems to me that one of the applicants for the LPC would not be a suitable candidate based on the above. This candidate has spoken publicly on at least 2 occasions that I have witnessed as well as written letters in favor of a proposal that is before LPC for approval (Royal Poinciana Plaza Redevelopment). It would seem that a clear bias has been publicly expressed and that would disqualify Mr. Stolman, the candidate. Although Sterling/Munder has withdrawn their application at this time, it is not known whether this is a temporary withdrawal to revise the plan as now proposed or to wait and see if a more compliant LPC will emerge from your selections and then reapply with a new commission. In either case, anyone who has publicly acknowledged his bias should not be appointed or reappointed.

It seems to me a mixture of experience and new faces would be ideal. Mr. Pandula has been very fair, open-minded and steady in this process which has been so divisive. He deserves to continue, if he so desires, as his experience is invaluable and he is an architect. Mr. Roberts has publicly expressed bias in favor of the Sterling/Munder plan when he was quoted in the Palm Beach Daily News article of Feb. 18, 2009 as saying: "I have traveled the world over. I've been a developer 40 years. We are so lucky to have them (Sterling/Munder) and their team doing something this fantastic." You have a pool of candidates who clearly love Palm Beach and are willing to give their time to the commission and who are new, but accomplished faces in Town Hall and they should be given a chance.

Sincerely,

Anne C. Pepper
333 Seaspray Ave.

COPY	DELETE	SAVE	SAVE & EXIT	QUIT
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Item Title and Type

Title Ord. 8-10	Agenda Type Regular Agenda
Agenda Category Ordinances - First Reading	Create Date 3/1/2010 : 9:36 AM

Item Details Meeting Attachments Comments Outside Routing History

PREVIEW

FROM: John C. Randolph, Town Attorney

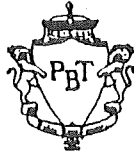
RESOLUTION NO.:

TIME CERTAIN:

AGENDA TITLE:

TOWN ATTORNEY JOHN RANDOLPH IS WORKING ON THIS ITEM AND MAY REQUEST A DEFERRAL TO THE APRIL 13, 2010.

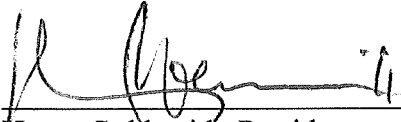
SAVE **SAVE & EXIT** **QUIT**

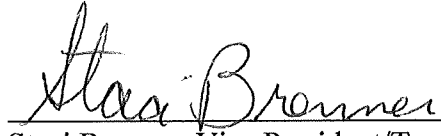


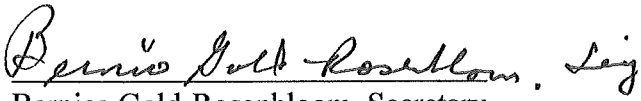
PALM BEACH TOWERS

Authorization to Act on Behalf of Palm Beach Towers Condominium Association, Inc.

The undersigned officers of the Board of Directors of Palm Beach Towers Condominium Association, Inc., hereby authorize John Grosskopf, the Manager of the Palm Beach Towers Condominium, to act on behalf of the Condominium Association and its residents in front of the Town Council, the Landmarks Preservation Commission, the Planning and Zoning Commission, and any other body of the Town of Palm Beach, to address any and all issues of concern to the Palm Beach Towers Condominium, including, but not limited to, the potential "redevelopment" of the Royal Poinciana Plaza.


Henry Goldsmith, President


Staci Brenner, Vice President/Treasurer


Bernice Gold-Rosenbloom, Secretary

CONDOMINIUM ASSOCIATION, INC.

44 Cocoanut Row, Palm Beach, Florida 33480
(561) 832-8511

Submitted at
TC MK
3/9/10

The Law Offices of
BRETON, LYNCH, EUBANKS & SUAREZ-MURIAS, P.A.

Peter L. Breton
Francis X. J. Lynch
John R. Eubanks, Jr.
Marta M. Suarez-Murias

www.blesmlaw.com
Sender's Direct Line: (561) 721-4002
E-Mail: jeubanks@blesmlaw.com

1209 North Olive Avenue
West Palm Beach, FL 33401-3515
Phone: (561) 721-4000
Facsimile: (561) 721-4001

March 6, 2010

Via E-mail

John C. "Skip" Randolph, Esq.
Jones, Foster, Johnston & Stubbs, P.A.
505 S. Flagler Drive
West Palm Beach, FL 33405

**Re: Disqualification of Charles S. Roberts to Serve
on Landmarks Preservation Commission**

Dear Skip:

As you know, there have been many rumors floating about in the public recently, stemming in large part from the Sterling Palm Beach LLC's Application for Certificate of Appropriateness ("COA") to the Landmarks Preservation Commission ("LPC"), whose Application has now been withdrawn. There is, however, one issue which recently came to my client's attention involving the qualifications of Charles S. Roberts to be a member of the LPC that appears to be demonstrably true. As a result, I feel compelled to pass the information along to you as the Town's Attorney, especially in light of the upcoming appointment of LPC Commissioners on Tuesday, and the potential for the information to not only affect those appointments, but also call into question any prior (as well as potentially future) actions of the LPC.

Under Section 54-26 of the Town Code, each member of the LPC must be a registered voter in the Town of Palm Beach with the exception of one member, who may be a non-resident of the Town with a special expertise in historic landmarks. For years, the non-resident member of the LPC has been Gene Pandula whose expertise has been universally recognized. Therefore, every other member of the LPC must be a properly registered voter.

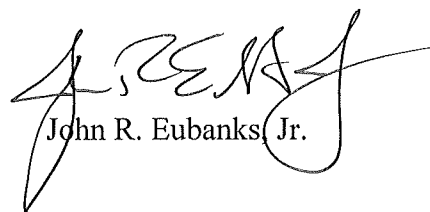
As set forth in the printout from the Supervisor of Elections, attached hereto as Exhibit "A," among the criteria to be a registered voter, "You must be a *permanent resident* of the state of Florida." (emphasis added). Assuming that Mr. Roberts is a registered voter in the Town of Palm Beach (especially since he initialed the statement that "I am a registered voter of the Town of Palm Beach" and signed his application for the LPC with the understanding that "any falsification of material facts will be grounds for rejection of this application or dismissal after appointment"), any such registration as a voter in the Town is suspect, at best, in light of the homestead of his primary residence in Georgia.

As shown in the printout attached hereto as Composite Exhibit "B," Mr. Roberts owns property located at 310 Wilderlake Court in Fulton County, Georgia, which is identified as his homestead, and has been since at least the year 2000. In accordance with that information provided by the website of the Georgia Department of Revenue, a copy of which is attached as Exhibit "C," under the category of Application for Homestead Exemption, "To be granted a homestead exemption, a person must actually occupy the home and the home is considered their *legal residence for all purposes*." (emphasis added). In addition, under the category of Standard Homestead Exemption, "The home of each resident of Georgia that *is actually occupied and used as the primary residence* by the owner may be granted ... exemption..." Therefore, by homesteading his property at 310 Wilderlake Court, Mr. Roberts has certified to the state of Georgia that the property: a) is occupied and used by him as his primary residence; and b) is his legal residence for *all purposes*.

As a result, it would be impossible for Mr. Roberts to have his home in Georgia as his primary legal residence for all purposes, and yet still meet the requirement that he is a "permanent resident of the state of Florida" in order to be properly registered as a voter in the state of Florida. Consequently, leaving aside whether he was properly appointed during his first term, Mr. Roberts does not appear to meet the criteria to be re-appointed as a member of the LPC.

I bring this to your attention now, prior to any re-appointment of Mr. Roberts, in order to avoid putting the Town in the awkward position of having to justify a close LPC vote in which Mr. Robert's casts the deciding vote, only to have that vote challenged as null and void for the failure of Mr. Roberts to meet the minimum requirements of being appointed to the LPC. Furthermore, even if Mr. Roberts could now remedy the apparent discrepancy in his Application, between his homestead in Georgia and being a registered voter in Florida, as Mr. Elwell was quoted in the *Palm Beach Daily News* just over a year ago, regarding actions taken by the Town: "It is about being beyond even the appearance of impropriety." As a result, I trust you will take whatever action you believe is in the best interest of the Town.

Very truly yours,



John R. Eubanks, Jr.

Encl.

cc: Members of Town Council
Members of Town Staff
John Grosskopf, General Manager Palm Beach Towers
Henry Goldsmith, President of the Board of Palm Beach Towers Condominium Association

Registered Voters as of 03/05/2010 REP: 235,611 DEM: 372,383 Other: 201,638 Total: 809,632

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Voter Registration - F.A.Q.

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Questions

[Who can register to vote?](#)[Who cannot register to vote?](#)[How do I register to vote?](#)[What are the Voter Registration Deadlines \(Book Closings\)?](#)[Are there deadlines at registration sites?](#)[What are the Voter Registration Deadlines by Mail?](#)[Are there deadlines at the Elections Department?](#)[What information must be provided on the application for the registration application to be valid?](#)[How do I register if I do not have a permanent address?](#)[What happens if I do not make an entry in the party affiliation section of the application?](#)[What if I cannot sign my name on the application?](#)[Do I have to re-register to vote before each election?](#)[Do I have to register somewhere else for city elections?](#)[After completing a voter registration application, when will I receive my voter I.D.?](#)[What do I do if I have a change in Name, Address, or Party Affiliation?](#)

Answers

Who can register to vote?

You must be 18 years, or older (you may pre-register if you are 17 or have received a valid Florida driver's license, whichever occurs earlier); You must be an American citizen; You must be a permanent resident of the state of Florida. There is no specific time requirement to live in Palm Beach County to be considered a permanent resident.

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Who cannot register to vote?

Anyone who does not meet the requirements for registration; Anyone declared mentally incompetent; Anyone convicted of a felony that has not had his/her civil rights restored; Any non-US citizen residing in the United States.

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How do I register to vote?

Registering to vote is a right. It is available to all persons that meet the requirements. In Palm Beach County there are many agencies where you can register or get [registration forms](#). If you need more information regarding the closest agency, or to obtain a form by mail, contact our office any weekday between 8:30 AM and 5:00 PM, at (561) 656-6200.

You may also register to vote anytime you are applying for or renewing:

A Florida Driver License

"A"

DETAILED TAX SUMMARY



City of Sandy Springs/Fulton County

TAX YEAR: 2009

Owner Name
ROBERTS CHARLES S

Parcel Identification
17 -0085-0004-012-3

Account Number
2052813

Property Location
310 WILDERLAKE CT

Tax District
59

Fair Market Value
1,600,000

Assessed Value
544,000

Temporary Assessment
544,000

City Exemption:

County Exemption: Fulton Homestead Reg

County Sales Tax Credit: \$360.51

Levies	Assessment	Exemptions	Net Assessment	X	Net Rate	State Credit	TAX
FULTON OPER	544,000	20,000	524,000	X	.010281	\$	\$5,387.24
FULTON SCHOOL GEN	544,000	2,000	542,000	X	.017502	\$	\$9,486.08
STATE	544,000	2,000	542,000	X	.000250	\$	\$135.50
Last Payment: 12/15/2009			Total Amount Billed				\$15,008.82
			Less Amount Paid				\$15,008.82
			Total Due				\$0.00
SANDY SPRINGS	544,000	15,000	529,000	X	.004731	\$	\$2,502.70
Last Payment: 12/15/2009			Total Amount Billed				\$2,502.70
			Less Amount Paid				\$2,502.70
			Total Due				\$0.00

Property owners with current legal matters, such as bankruptcy or foreclosure, must contact the Tax Commissioner's office at (404) 730-6100 for the official balance due on their parcel(s).

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Composite "B"

DETAILED TAX SUMMARY



City of Sandy Springs/Fulton County

TAX YEAR: 2008

Owner Name
ROBERTS CHARLES S

Parcel Identification
17 -0085-0004-012-3

Account Number
2052813

Property Location
310 WILDERLAKE CT

Tax District
59

Fair Market Value
1,600,000

Assessed Value
640,000

Temporary Assessment
Not Found

City Exemption:

County Exemption Fulton Homestead Reg

County Sales Tax Credit: \$462.50

Levies	Assessment	Exemptions	Net Assessment	X	Net Rate	State Credit	TAX
FULTON OPER	640,000	15,000	625,000	X	.010281	\$-82.25	\$6,343.38
SANDY SPRINGS	640,000	15,000	625,000	X	.004731	\$-37.85	\$2,919.03
FULTON SCHOOL BOND	640,000	0	0	X	.001099	\$	\$703.36
FULTON SCHOOL GEN	640,000	2,000	638,000	X	.016403	\$-131.22	\$10,333.89
STATE	640,000	2,000	638,000	X	.000250	\$-2.00	\$157.50
Last Payment: 10/8/2008			Total Amount Billed				\$20,457.16
			Less Amount Paid				\$20,457.16
			Total Due				\$0.00

Property owners with current legal matters, such as bankruptcy or foreclosure, must contact the Tax Commissioner's office at (404) 730-6100 for the official balance due on their parcel(s).

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DETAILED TAX SUMMARY



City of Sandy Springs/Fulton County

TAX YEAR: 2009

Owner Name
ROBERTS CHARLES S

Parcel Identification
17 -0085-0004-012-3

Account Number
2052813

Property Location
310 WILDERLAKE CT

Tax District
59

Fair Market Value
1,600,000

Assessed Value
544,000

Temporary Assessment
544,000

City Exemption:

County Exemption: Fulton Homestead Reg

County Sales Tax Credit: \$360.51

Levies	Assessment	Exemptions	Net Assessment	X	Net Rate	State Credit	TAX
FULTON OPER	544,000	20,000	524,000	X	.010281	\$	\$5,387.24
FULTON SCHOOL GEN	544,000	2,000	542,000	X	.017502	\$	\$9,486.08
STATE	544,000	2,000	542,000	X	.000250	\$	\$135.50
Last Payment: 12/15/2009			Total Amount Billed				\$15,008.82
			Less Amount Paid				\$15,008.82
			Total Due				\$0.00
SANDY SPRINGS	544,000	15,000	529,000	X	.004731	\$	\$2,502.70
Last Payment: 12/15/2009			Total Amount Billed				\$2,502.70
			Less Amount Paid				\$2,502.70
			Total Due				\$0.00

Property owners with current legal matters, such as bankruptcy or foreclosure, must contact the Tax Commissioner's office at (404) 730-6100 for the official balance due on their parcel(s).

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DETAILED TAX SUMMARY



City of Sandy Springs/Fulton County

TAX YEAR: 2007

Owner Name
ROBERTS CHARLES S

Parcel Identification
17 -0085-0004-012-3

Account Number
2052813

Property Location
310 WILDERLAKE CT

Tax District
59

Fair Market Value
1,600,000

Assessed Value
640,000

Temporary Assessment
Not Found

City Exemption:

County Exemption: Fulton Homestead Reg

County Sales Tax Credit: \$865.63

Levies	Assessment	Exemptions	Net Assessment	X	Net Rate	State Credit	TAX
FULTON OPER	640,000	15,000	625,000	X	.010281	\$-82.25	\$6,343.38
SANDY SPRINGS	640,000	15,000	625,000	X	.004731	\$-37.85	\$2,919.03
FULTON SCHOOL BOND	640,000	0	0	X	.001188	\$	\$760.32
FULTON SCHOOL GEN	640,000	2,000	638,000	X	.016903	\$-135.22	\$10,648.89
STATE	640,000	2,000	638,000	X	.000250	\$-2.00	\$157.50
Last Payment: 10/22/2007			Total Amount Billed				\$20,829.12
			Less Amount Paid				\$20,829.12
			Total Due				\$0.00

Property owners with current legal matters, such as bankruptcy or foreclosure, must contact the Tax Commissioner's office at (404) 730-6100 for the official balance due on their parcel(s).

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DETAILED TAX SUMMARY



City of Sandy Springs/Fulton County

TAX YEAR: 2006

Owner Name
ROBERTS CHARLES S

Parcel Identification
17 -0085-0004-012-3

Account Number
2052813

Property Location
310 WILDERLAKE CT

Tax District
59

Fair Market Value
1,600,000

Assessed Value
640,000

Temporary Assessment
Not Found

City Exemption:

County Exemption: Fulton Homestead Reg

County Sales Tax Credit: \$1,080.00

Levies	Assessment	Exemptions	Net Assessment	X	Net Rate	State Credit	TAX
FULTON BONDS	640,000	0	0	X	.000063	\$	\$40.32
FULTON OPER	640,000	15,000	625,000	X	.011407	\$-91.26	\$7,038.12
SANDY SPRINGS	640,000	15,000	625,000	X	.004731	\$-37.85	\$2,919.03
FULTON SCHOOL BOND	640,000	0	0	X	.000282	\$	\$180.48
FULTON SCHOOL GEN	640,000	2,000	638,000	X	.017825	\$-142.60	\$11,229.75
STATE	640,000	2,000	638,000	X	.000250	\$-2.00	\$157.50
Last Payment: 10/20/2006			Total Amount Billed				\$21,565.20
			Less Amount Paid				\$21,565.20
			Total Due				\$0.00

Property owners with current legal matters, such as bankruptcy or foreclosure, must contact the Tax Commissioner's office at (404) 730-6100 for the official balance due on their parcel(s).

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DETAILED TAX SUMMARY



City of Sandy Springs/Fulton County

TAX YEAR: 2005

Owner Name
ROBERTS CHARLES S

Parcel Identification
17 -0085-0004-012-3

Account Number
2052813

Property Location
310 WILDERLAKE CT

Tax District
55

Fair Market Value
1,600,000

Assessed Value
640,000

Temporary Assessment
Not Found

City Exemption:

County Exemption: Fulton Homestead Reg

County Sales Tax Credit: \$1,095.63

Levies	Assessment	Exemptions	Net Assessment	X	Net Rate	State Credit	TAX
FULTON BONDS	640,000	0	0	X	.000064	\$	\$40.96
FULTON OPER	640,000	15,000	625,000	X	.011581	\$-92.65	\$7,145.48
FULTON SCHOOL BOND	640,000	0	0	X	.000282	\$	\$180.48
FULTON SCHOOL GEN	640,000	2,000	638,000	X	.017825	\$-142.60	\$11,229.75
STATE	640,000	2,000	638,000	X	.000250	\$-2.00	\$157.50
SPECIAL SERVICE DIST	640,000	15,000	625,000	X	.004731	\$-37.85	\$2,919.03
Last Payment: 9/13/2006			Total Amount Billed				\$21,673.20
			Less Amount Paid				\$21,673.20
			Total Due				\$0.00

Property owners with current legal matters, such as bankruptcy or foreclosure, must contact the Tax Commissioner's office at (404) 730-6100 for the official balance due on their parcel(s).

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DETAILED TAX SUMMARY



City of Sandy Springs/Fulton County

TAX YEAR: 2004

Owner Name
ROBERTS CHARLES S

Parcel Identification
17 -0085-0004-012-3

Account Number
2052813

Property Location
310 WILDERLAKE CT

Tax District
55

Fair Market Value
1,485,486

Assessed Value
594,190

Temporary Assessment
Not Found

City Exemption:

County Exemption: Fulton Homestead Reg

County Sales Tax Credit: \$953.35

Levies	Assessment	Exemptions	Net Assessment	X	Net Rate	State Credit	TAX
FULTON BONDS	594,190	0	0	X	.000066	\$	\$39.22
FULTON GENERAL	594,190	15,000	579,190	X	.011581	\$-92.65	\$6,614.95
FULTON SCHOOL BOND	594,190	0	0	X	.000291	\$	\$172.91
FULTON SCHOOL GEN	594,190	2,000	592,190	X	.017315	\$-138.52	\$10,115.25
STATE	594,190	2,000	592,190	X	.000250	\$-2.00	\$146.05
SPECIAL SERVICE DIST	594,190	15,000	579,190	X	.004731	\$-37.85	\$2,702.30
Last Payment: 6/7/2006			Total Amount Billed				\$19,790.68
			Less Amount Paid				\$19,790.68
			Total Due				\$0.00

Property owners with current legal matters, such as bankruptcy or foreclosure, must contact the Tax Commissioner's office at (404) 730-6100 for the official balance due on their parcel(s).

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DETAILED TAX SUMMARY



City of Sandy Springs/Fulton County

TAX YEAR: 2003

Owner Name
ROBERTS CHARLES S

Parcel Identification
17 -0085-0004-012-3

Account Number
2052813

Property Location
310 WILDERLAKE CT

Tax District
55

Fair Market Value
1,619,300

Assessed Value
647,720

Temporary Assessment
Not Found

City Exemption:

County Exemption: Fulton Homestead Reg

County Sales Tax Credit: \$1,143.96

Levies	Assessment	Exemptions	Net Assessment	X	Net Rate	State Credit	TAX
FULTON BONDS	647,720	0	0	X	.000270	\$	\$174.88
FULTON GENERAL	647,720	15,000	632,720	X	.012052	\$-96.42	\$7,529.12
FULTON SCHOOL BOND	647,720	0	0	X	.000298	\$	\$193.02
FULTON SCHOOL GEN	647,720	2,000	645,720	X	.017758	\$-142.06	\$11,324.64
STATE	647,720	2,000	645,720	X	.000250	\$-2.00	\$159.43
SPECIAL SERVICE DIST	647,720	15,000	632,720	X	.004307	\$-34.46	\$2,690.67
Last Payment: 7/23/2004			Total Amount Billed				\$22,071.76
			Less Amount Paid				\$22,071.76
			Total Due				\$0.00

Property owners with current legal matters, such as bankruptcy or foreclosure, must contact the Tax Commissioner's office at (404) 730-6100 for the official balance due on their parcel(s).

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DETAILED TAX SUMMARY



City of Sandy Springs/Fulton County

TAX YEAR: 2010

Owner Name
ROBERTS CHARLES S

Parcel Identification
17 -0085-0004-012-3

Account Number
2052813

Property Location
310 WILDERLAKE CT

Tax District
55

Fair Market Value
1,476,700

Assessed Value
590,680

Temporary Assessment
Not Found

City Exemption:

County Exemption: Fulton Homestead Reg

County Sales Tax Credit: \$1,185.90

Levies	Assessment	Exemptions	Net Assessment	X	Net Rate	State Credit	TAX
FULTON BONDS	590,680	0	0	X	.000280	\$	\$165.39
FULTON GENERAL	590,680	15,000	575,680	X	.012527	\$-100.22	\$7,111.32
FULTON SCHOOL BOND	590,680	0	0	X	.000310	\$	\$183.11
FULTON SCHOOL GEN	590,680	2,000	588,680	X	.018460	\$-147.68	\$10,719.35
STATE	590,680	2,000	588,680	X	.000250	\$-2.00	\$145.17
SPECIAL SERVICE DIST	590,680	15,000	575,680	X	.004469	\$-35.75	\$2,536.96
Last Payment: 12/26/2002			Total Amount Billed				\$20,861.30
			Less Amount Paid				\$20,861.30
			Total Due				\$0.00

Property owners with current legal matters, such as bankruptcy or foreclosure, must contact the Tax Commissioner's office at (404) 730-6100 for the official balance due on their parcel(s).

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DETAILED TAX SUMMARY



City of Sandy Springs/Fulton County

TAX YEAR: 2010

Owner Name
ROBERTS CHARLES S

Parcel Identification
17 -0085-0004-012-3

Account Number
2052813

Property Location
310 WILDERLAKE CT

Tax District
55

Fair Market Value
1,360,000

Assessed Value
544,000

Temporary Assessment
Not Found

City Exemption:

County Exemption: Fulton Homestead Reg

County Sales Tax Credit: \$1,200.83

Levies	Assessment	Exemptions	Net Assessment	X	Net Rate	State Credit	TAX
FULTON BONDS	544,000	0	0	X	.000300	\$	\$163.20
FULTON GENERAL	544,000	15,000	529,000	X	.013040	\$-78.24	\$6,819.92
FULTON SCHOOL BOND	544,000	0	0	X	.000760	\$	\$413.44
FULTON SCHOOL GEN	544,000	2,000	542,000	X	.018260	\$-109.56	\$9,787.36
STATE	544,000	2,000	542,000	X	.000250	\$-1.50	\$134.00
SPECIAL SERVICE DIST	544,000	15,000	529,000	X	.004700	\$	\$2,486.30
Last Payment: 10/16/2001			Total Amount Billed				\$19,804.22
			Less Amount Paid				\$19,804.22
			Total Due				\$0.00

Property owners with current legal matters, such as bankruptcy or foreclosure, must contact the Tax Commissioner's office at (404) 730-6100 for the official balance due on their parcel(s).

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DETAILED TAX SUMMARY



City of Sandy Springs/Fulton County

TAX YEAR: 2010

Owner Name
ROBERTS CHARLES S

Parcel Identification
17 -0085-0004-012-3

Account Number
2052813

Property Location
310 WILDERLAKE CT

Tax District
55

Fair Market Value
1,360,000

Assessed Value
544,000

Temporary Assessment
Not Found

City Exemption:

County Exemption: Fulton Homestead Reg

County Sales Tax Credit: \$1,269.60

Levies	Assessment	Exemptions	Net Assessment	X	Net Rate	State Credit	TAX
FULTON BONDS	544,000	0	0	X	.000380	\$	\$206.72
FULTON GENERAL	544,000	15,000	529,000	X	.013310	\$-53.24	\$6,987.75
FULTON SCHOOL BOND	544,000	0	0	X	.000800	\$	\$435.20
FULTON SCHOOL GEN	544,000	2,000	542,000	X	.019350	\$-77.40	\$10,410.30
STATE	544,000	2,000	542,000	X	.000250	\$-1.00	\$134.50
SPECIAL SERVICE DIST	544,000	15,000	529,000	X	.004760	\$	\$2,518.04
Last Payment: 7/21/2000			Total Amount Billed				\$20,692.51
			Less Amount Paid				\$20,692.51
			Total Due				\$0.00

Property owners with current legal matters, such as bankruptcy or foreclosure, must contact the Tax Commissioner's office at (404) 730-6100 for the official balance due on their parcel(s).

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LOCAL GOVERNMENT SERVICES DIVISION

Property Tax Guide For The Georgia Taxpayer
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Homestead Exemption

Generally, a homeowner is entitled to a homestead exemption on their home and land underneath provided the home was owned by the homeowner and was their legal residence as of January 1 of the taxable year. (O.C.G.A. § 48-5-40)

Application for Homestead Exemption

To be granted a homestead exemption, a person must actually occupy the home, and the home is considered their legal residence for all purposes. Persons that are away from their home because of health reasons will not be denied homestead exemption. A family member or friend can notify the tax receiver or tax commissioner and the homestead exemption will be granted. (O.C.G.A. § 48-5-40)

Application for homestead exemption must be filed with the tax commissioner's office, or in some counties the tax assessor's office has been delegated to receive applications for homestead exemption.

A homeowner can file an application for homestead exemption for their home and land any time during the calendar year. To receive the homestead exemption for the current tax year, the homeowner must have owned the property on January 1 and filed the homestead application by the same date property tax returns are due in the county. Most counties have a due date of April 1, but some counties have a due date of March 1. Homestead applications that are filed after this date will not be granted until the next calendar year. (O.C.G.A. § 48-5-45)

Failure to apply by the deadline will result in loss of the exemption for that year. (O.C.G.A. § 48-5-45)

[Click this link for more information on when homestead applications should be filed in the county.](#)

Exemptions Offered by the State and Counties

The State of Georgia offers homestead exemptions to all qualifying homeowners. In some counties they have increased the amounts of their homestead exemptions by local legislation above the amounts offered by the State. As a general rule the exemptions offered by the county are more beneficial to the homeowner.

Homestead Exemptions Offered by the State

• Standard Homestead Exemption

The home of each resident of Georgia that is actually occupied and used as the primary residence by the owner may be granted a \$2,000 exemption from state, county and school taxes except for school taxes levied by municipalities and except to pay interest on and to retire bonded indebtedness. The \$2,000 is deducted from the 40% assessed value of the homestead. The owner of a dwelling house of a farm that is granted a homestead exemption may also claim a homestead exemption in participation with the program of rural housing under contract with the local housing authority. (O.C.G.A. § 48-5-44)

• Individuals 65 Years of Age and Older May Claim an exemption from state tax on their home and 10 acres of land surrounding the home

Individuals 65 years of age or over may claim an exemption from all state ad valorem taxes on their home and up to 10 acres of land surrounding the home. Ad valorem tax for state purposes will be due on the assessed value of land that exceeds the 10 acre limitation. (O.C.G.A. § 48-5-48.3)

• Individuals 65 Years of Age and Older May Claim a \$4,000 Exemption

Individuals 65 years of age or over may claim a \$4,000 exemption from all state and county ad valorem taxes if the income of that person and his spouse does not exceed \$10,000 for the prior year. Income from retirement sources, pensions, and disability income is excluded up to the maximum amount allowed to be paid to an individual and his spouse under the federal Social Security Act. The social security maximum benefits for 2010 is \$55,742. The owner must notify the county tax commissioner if for any reason they no longer meet the requirements for this exemption. (O.C.G.A. § 48-5-47)

• Individuals 62 Years of Age and Older May Claim Additional Exemption for Educational Purposes

Individuals 62 years of age or over that are residents of each independent school district and of each county school district may claim an additional exemption from all ad valorem taxes for educational purposes and to retire school bond indebtedness if the income of that person and his spouse does not exceed \$10,000 for the prior year. Income from retirement sources, pensions, and disability income is excluded up to the maximum amount allowed to be paid to an individual and his spouse under the federal Social Security Act. The social security maximum benefits for 2010 is \$55,742. The owner must notify the county tax commissioner if for any reason they no longer meet the requirements for this exemption. This exemption may not exceed \$10,000 of the homestead's assessed value. (O.C.G.A. § 48-5-52)

• Floating Inflation-Proof Exemption

Individuals 62 years of age or over may obtain a floating inflation-proof state and county homestead exemption, except for taxes to pay interest on and to retire bonded indebtedness, based on natural increases in the homestead's value. If the appraised value of the home has increased by more than \$10,000, the owner may benefit from this exemption. Income, together with spouse or any other person residing in the house, can not exceed \$30,000. This exemption does not affect any municipal or educational taxes and is meant to be used in the place of any other state and county homestead exemption. (O.C.G.A. § 48-5-47.1)

• Homestead Exemption for Disabled Veteran or Surviving Spouse

Any qualifying disabled veteran may be granted an exemption of \$50,000 from paying property taxes for state, county, municipal, and school purposes. The value of the property in excess of this exemption remains taxable.

Submitted TC
Mtg 3/19/10

Natalie Bonta

From: Mimi DeBeve [midebeve@robertspropertiesinc.com]
Sent: Monday, March 08, 2010 12:35 PM
To: croberts@robertspropertiesinc.com
Subject: Homestead Exemption

Attachments: 310 Wilderlake Homestead Declaration.pdf

310 Wilderlake Ct. has declared a Homestead Exemption on the property taxes since at least 1998. Once the Homestead Exemption is granted it is automatically renewed each year. We should have requested this exemption be removed from the property when you moved to Florida in 2006, however, I overlooked making this request at that time.

To correct this error, a letter has been faxed to Fulton County's Homestead Supervisor requesting the Homestead Exemption be removed from the property. I have attached a copy of this letter and the fax confirmation for your files.

Mimi DeBeve
Accounting Manager
Roberts Properties, Inc.
450 Northridge Parkway, Suite 300
Atlanta, Georgia 30330
(770) 394-6000 Ext. 108
(770) 396-0706 Fax
midebeve@robertspropertiesinc.com

Charles S. Roberts
310 Wilderlake Court
Atlanta, Georgia 30328

Via Facsimile
(404) 224-1130

March 8, 2010

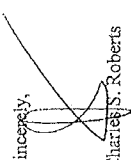
Ms. Florence Brooks
Homestead Supervisor
Fulton County Tax Assessors' Office
141 Pryor Street - Suite 1047B
Atlanta, Georgia 30303

Re: 310 Wilderlake Ct.
Atlanta, Georgia 30328
PCN: 17-0085-0004-012-3
Account Number: 2052813

Dear Ms. Brooks,

Please remove the Fulton County Homestead Exemption from the above referenced property effective immediately. Please fax a copy of your Declaration Letter as confirmation that this request has been processed to Mimi DeBeve at (770) 396-0706.

Please contact Ms. DeBeve at (770) 394-6000 ext. 108 if you have any questions or need any additional information regarding this matter.

Sincerely,

Charles S. Roberts
Cc: Rick Schewe

MD:3-J09