



TOWN OF PALM BEACH

TOWN COUNCIL MEETING

TOWN HALL
COUNCIL CHAMBERS - SECOND FLOOR
360 SOUTH COUNTY ROAD

AGENDA

JANUARY 9, 2024

9:30 AM

Welcome

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

I. CALL TO ORDER AND ROLL CALL

Danielle H. Moore, Mayor
Margaret A. Zeidman, President
Bobbie D. Lindsay, President Pro Tem
Julie Araskog
Ted Cooney
Lew Crampton

II. INVOCATION AND PLEDGE OF ALLEGIANCE

III. MODIFICATIONS TO THE AGENDA

IV. APPROVAL OF AGENDA

V. PRESENTATIONS

Page 6

- A. Annual Report from Palm Beach Island Cats
David Leavitt, Palm Beach Island Cats

VI. BOARD AND COMMISSIONS PRESENTATIONS AND APPOINTMENTS

Page 9

- A. Presentations by the Applicants and Appointments to the Code Enforcement Board
Kelly Churney, Acting Town Clerk

VII. COMMENTS OF MAYOR DANIELLE H. MOORE

VIII. COMMENTS OF TOWN COUNCIL MEMBERS

IX. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

X. APPROVAL OF CONSENT AGENDA

A. MINUTES

Page 21

1. Town Council Meeting Minutes
Kelly Churney, Acting Town Clerk
- a. December 8, 2023, Special Town Council Meeting Minutes
b. December 12, 2023, Town Council Meeting Minutes
c. December 13, 2023, Town Council Development Review Meeting Minutes

2. Approval of Major Matters Considered by the Architectural Review Commission at its Meeting of December 15, 2023
Wayne Bergman, Director of Planning, Zoning and Building

Page 65

B. RESOLUTIONS

1. RESOLUTION NO. 002-2024 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Change Order to Bridges, Marsh & Associates for Renovation to the North Fire Station in the Amount of \$125,000 for a Total Purchase Amount of \$685,000.
H. Paul Brazil, P.E., Director of Public Works

Page 92

C. OTHER

1. Donation Acceptance - PBP&FF
Nicholas Caristo, Chief of Police

Page 97

XI. BOARD/COMMISSION ANNUAL REPORT

- A. Annual Report of the Recreation Advisory Commission
Grier Pressly, Chair

Page 103

XII. REGULAR AGENDA

A. Matters Pulled From Consent Agenda: If needed

B. Old Business

1. Discussion Regarding Town Council Meeting Minutes Page 110
Margaret A. Zeidman, Town Council President
2. Phipps Ocean Park Project Page 282
TIME CERTAIN: 11:00 A.M.
 - a. RESOLUTION NO. 003-2024 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing Modifications to the Approved Site Plan for Phipps Ocean Park, Located at 2185 South Ocean Boulevard, Palm Beach, Florida.
H. Paul Brazil, P.E., Director of Public Works
 - b. RESOLUTION NO. 004-2024 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving A 75-Year Naming Rights Term for the Lead Donor to Phipps Ocean Park as Part of The Preservation Foundation of Palm Beach's Extraordinary Spaces Capital Campaign.
Carolyn Stone, Deputy Town Manager and Amanda Skier, Preservation Foundation of Palm Beach
3. Mid-Town Beach Renourishment Project Update Page 297
H. Paul Brazil, P.E., Director of Public Works
4. Town-Wide Undergrounding Project - Review of Project and Dashboard, Summary of Project Status Page 300
H. Paul Brazil, P.E., Director of Public Works

C. New Business

1. Wells Fargo Site - Review and Feedback of Comprehensive Plan Amendments and Zoning Code Amendments Page 307
TIME CERTAIN: 2:00 P.M.
Wayne Bergman, Director of Planning, Zoning and Building

XIII. ORDINANCES

A. Second Reading

1. Proposed Ordinance to Amend Chapter 46 of the Town Code Relative to Fire Prevention and Protection Page 344

ORDINANCE NO. 023-2023 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 46, Fire Prevention and Protection in Accordance with Florida Statute 633.202 and 633.208 the "Florida Fire Prevention Code" Adopted by the State of Florida Fire Marshall In Chapter 69A-60 Of the

Florida Administrative Code with Local Amendments, National Fire Protection Association National Fire Code – N.F.P.A. 1, Florida Current Edition; And National Fire Protection Association Life Safety Code - N.F.P.A. 01, Florida Current Edition; Including Amendments To Sections 46-32, 46-33, 46-36, 46-66, 46-68, 46-69, 46-70, 46-71, 46-72, 46-73, 46-74, 46-75, 46-76, 46-77, 46-78, 46-80, And 46-82 All As Provided In Exhibit A Attached; Providing For Severability; Repealing All Ordinances Or Parts Of Ordinances In Conflict Herewith; Providing For Codification; And Providing For An Effective Date.

Darrel Donatto, Fire Rescue Chief

2. Proposed Ordinance to Amend the Town's Equipment Replacement Fund

Page 359

ORDINANCE NO. 027-2023 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Providing for an Amendment to the Town's Equipment Replacement Fund Adopted for the Fiscal Year Commencing October 1, 2023, and Providing an Effective Date.

Bob Miracle, Deputy Town Manager - Finance and Administration

XIV. ANY OTHER MATTERS

XV. ADJOURNMENT

Procedures for Public Participation:

Note 1: **Live Stream audio:** To watch/listen live, visit the 'Public Meetings' webpage on the Town's website at www.townofpalmbeach.com. and select the "View Event" or "Click Here to Listen" button.

Note 2: Any citizen is entitled to be heard concerning any matter under the sections entitled 'Communications from Citizens' and 'Public Hearings', subject to the three-minute limitation. The public also can speak to any item listed on the agenda, including the consent agenda, at the time the agenda item comes up for discussion. 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. In-person or virtual Public Comment is limited to three minutes and must be preceded by your name and address for the record. As a public business meeting, the Town Council President retains the right to limit discussion on any issue.

Alternative public comment is also welcome for Town Council Meetings via four methods:

1. To make a public comment virtually (for Town Council Meetings Only), email a request to publiccomment@townofpalmbeach.com and identify the desired agenda item(s) to be addressed

2. Written public comment submittals should be sent to publiccomment@townofpalmbeach.com.
3. Direct written entry into the public meeting record through the eComment portal on the Public Meetings webpage.
4. Mail or in-person submittal of written document to the Town Clerk's Office at Town Hall no later than the Friday prior to the meeting.

Note 3: **Appeals:** If a person decides to appeal any decision made with respect to any matter considered at this meeting, they will need to ensure that a verbatim record of the proceedings is made for such purposes, which shall include the testimony and evidence upon which the appeal is to be based.

Note 4: Disabled persons needing accommodations to participate in this meeting are requested to call the Clerk's Office at (561) 838-5416 at least one day prior to the meeting.

TOWN OF PALM BEACH

Town Council Meeting on: January 9, 2024

Section of Agenda Presentations

Agenda Title
Annual Report from Palm Beach Island Cats

Presenter
David Leavitt, Palm Beach Island Cats

ATTACHMENTS:

- ▣ **Annual Report of Palm Beach Island Cats**

PALM BEACH ISLAND CATS 2023 REPORT

Palm Beach Island Cats (PBIC) wants all cats to live safely in houses. Our program of trap, neuter, return and maintain is the humane way to get there. We provide food and water every night, as well as any necessary medical care. We respond to resident concerns daily. Now I'd like to share serious challenges we face.

Increasing numbers of cats are being brought to Palm Beach and abandoned. This is a new and big problem. It is shocking to have 28 single kittens, as well as many adult pets and trapped feral cats, brought over the bridges, and released. The new ferals are a particular problem because they have been recently trapped and are trap shy, making it very hard for us to recapture and neuter them. The problem a few years ago on Jamaica Lane is a perfect example of what can happen. In short order, 3 cats became 46. We had hoped the success of our work meant that there would eventually be no free roaming community cats. We have learned that fertile cats will continue to be abandoned here and a Town TNR group will always be needed to ensure a huge cat population is not created again.

The community cat population in West Palm has suffered just such a population explosion. Shelters are full and stopped admitting cats. It was a shock to see our longtime partner, Peggy Adams Animal Rescue League, stop admitting. This combination of huge cat population and nowhere to take a cat for adoption, is driving our problem of dumped cats. In addition, we have always depended on Peggy Adams for feral cat spay and neuter procedures. Their sterilization program is now under extreme pressure due to increased demand. This demand has exceeded their current capacity. Now PBIC cannot get a surgery slot. There are few other providers for feral cat sterilization and certainly no low-cost ones. We had 57 cats to alter this year and it was very difficult to accomplish.

PBIC sometimes must take in and domesticate tiny kittens. Peggy Adams has a program for this difficult procedure. Sadly, we cannot get a kitten admitted to it. Our Field Director must handle this, with its required hourly feeding. Once we have raised and domesticated these kittens, Peggy Adams had always helped us by placing the kittens for adoption, as well as the dumped pet cats we caught. This is no longer available to us, and that is huge problem.

Palm Beach has had an influx of new residents. Most are kind and considerate. Some are not. They do not know the Island's cat history or have any consideration or compassion for our cats. We do our best to placate them, but for many, that is not possible.

A number of cats were lost to coyotes when they first appeared, including a beautiful, friendly long haired male right behind Bobbie Lindsey's house, in the far north end. This predation seems to have slowed down now, but please, still be careful letting pet cats or small dogs out unattended, because coyote's range is now the whole Island.

We are very good at our mission, but providing adoption services, neonatal care and placating difficult, aggressive residents, has stretched us to the limit.

Finally, some Good News

1. Our small staff continues to excel in their difficult work. We are very lucky to have them.
2. We have a steadfast Board of Directors that is the backbone of all we accomplish.

3. Our residents appreciate us and fund our work.
4. It is great news that Island Animal Hospital has found a new home on the Island. They have provided wonderful care to our cats from our inception.
5. The Royal Poinciana Playhouse was home to a large cat colony for many decades. Through TNR, the population slowly decreased, till there were no cats there when Playhouse reconstruction started.
6. PBIC is very thankful for the support of Town Council and Code Enforcement. We could not survive without it.

PALM BEACH ISLAND CATS 2023 /2022 COMPARISON

	<u>2023</u>	<u>2022</u>
Total Cats Handled	66	51
New Alters.	57	32
Medical Treatment.	19	13
Revaccinated	66	30
Kittens.	46*	15
returned to island	9	3
placed for adoption	37	12
Total Deceased Cats	29	8
Hit by car.	8	3
Euthanized	12	5
Feeding Stations	50	35
Census	350	230

FOOD USED

Dry Food-

Taste of Wild + Purina	4,240 lbs.	4,850 lbs.
Wet Food	21,353 cans	26,973 cans

2023 food numbers are lower than 2022, despite more cats this year, due to some resident feeders choosing to buy their own cat food.

Sincerely,

David Leavitt

Pres.

PBIC Board of Directors

Jane Dankin Ellen Ruland
David Leavitt Rob Scarborough
Cheryl Love Dr. John Strasswimmer
Michele Poole

TOWN OF PALM BEACH

Town Council Meeting on: January 9, 2024

Section of Agenda

Board and Commissions Presentations and Appointments

Agenda Title

Presentations by the Applicants and Appointments to the Code Enforcement Board

Presenter

Kelly Churney, Acting Town Clerk

ATTACHMENTS:

- ▣ **Memorandum Dated January 3, 2024, from Pat Gayle-Gordon, Deputy Town Clerk**
- ▣ **Board Roster**
- ▣ **Attendance Record**
- ▣ **Status Sheet**
- ▣ **Sample Ballot**
- ▣ **Application - Armand Harris**

TOWN OF PALM BEACH

Information for Town Council Meeting on January 9, 2024

TO: Mayor and Town Council

VIA: Kirk W. Blouin, Town Manager

VIA: Kelly Churney, Acting Town Clerk

FROM: Pat Gayle-Gordon, Deputy Town Clerk

RE: Code Enforcement Board Appointment of One Alternate Member

DATE: January 3, 2024

STAFF RECOMMENDATION

Staff recommends that the Town Council review the attached application and appoint one (1) alternate member to the Code Enforcement Board. This member will fill the vacancy created due to the resignation of Pamela Davies on December 15, 2023. This term will expire on March 1, 2025.

GENERAL INFORMATION

The Town Clerk's office has received one (1) application seeking **NEW APPOINTMENT** from Armand Harris, 2275 S. Ocean Boulevard, Apt. 106A, Palm Beach, FL.

Attachments

cc: Ben Alma, Support Services Manager

CODE ENFORCEMENT BOARD ROSTER

<u>Name & Address</u>	<u>Email Address</u>	<u>Appointment</u>	<u>Term Expires</u>
01/09/24 TC Bram Majtlis – Chairman 2275 S. Ocean Blvd. #207A Palm Beach, FL 33480 – Business Person	BMajtlis723@me.com 404-274-8113	4/2022 4/2019 6/2018	4/2025 (Term 2)*** 4/2022 (Term 1) 4/2019 (0 Less than 1.5 yrs. Alternate
Scotch Peloso – Vice Chair 244 Sunset Ave. Unit 5 Palm Beach, FL 33480 -Tutor	palmbeach@gmail.com 561-247-1072	4/2021	4/2024 (Term 1 – Mr. Meltzer not eligible for reappointment filled seat)
John B. McGowan Jr. 210 Esplanade Way Palm Beach, FL 33480 Private Investor	john@mcgowangrp.com 561-444-2375 (h) 610-585-2701 (w)	08/2022 03/2022 04/2023	4/2026 – (Term 1) 4/2023 – reappointed (Term 1) 4/2023 – (Term 0) Filled Dan McDonnell seat in 8/2022, Mr. McDonnell term ended on 4/2023. Less than 18 months. 3/2022 – elected as alternate less than 6 months.
Linda Wartow 2295 S. Ocean Blvd. # 814 Palm Beach, FL 33480 – Business Person	LWartow@aol.com 561-547-3311 617-968-5400 (c)	4/2021 4/2018 2/2018	4/2024 (Term 2)**** 4/2021 (Term 1) 4/2018 (0 less than 1.5 yrs)
Pamela Saba 2760 S Ocean Blvd #412 Palm Beach, FL 33480 – Business Person	adsabenterprise@icloud.com 561-385-3051	4/2022 4/2020	4/2025 (Term 1) 4/2022 (0 less than 1.5 yrs. Filling Mr. Cohens alternate position)
Martin Klein 1060 N Ocean Blvd. Palm Beach, FL 33480 - Lawyer	Martinklein@gmail.com 561-881-8000	1/2023 1/2021	1/2026 (Term 2**) reappointed regular member. 1/2023 (Term1 – Filling Mr. Cohens unexpired regular member position)
Chris Larmoyeux 217 Tangier Ave. Palm Beach, FL 33480 - Lawyer	cmi@lb-law.com 561-685-4206	4/2021	4/2024 (Term 1)
ALTERNATES			
Harris Fried 250 Seminole Ave #7 Palm Beach, FL 33480	Harris.Fried@gmail.com 561-596-4559	8/2022	8/2025 (Term 1 – filled Ms. Piroso seat less than 6 months)
Vacant			3/2025

Code Enforcement Board Attendance Record 2023

Member	1/19	2/16	3/16	4/20	5/18	6/15	7/20	8/17	9/14	10/19	11/16	12/21
Bram Majtlis	<i>(Regular Member 4/2019 - Term 1, re-elected 4/2022 2nd term)</i>											
	P	P	P	E	P	P	P	P	E	P	P	P
John B. McGowan Jr.	<i>(Regular Member as of 8/2022)</i>											
	P	P	E	P	E	P	P	P	P	P	P	P
Linda K. Wartow	<i>(Regular Member as of 04/2018, Alternate 02/2018 - 04/2018)</i>											
	P	P	P	P	P	P	E	P	E	P	P	P
Martin Klein	<i>(Regular Member as of 1/2021)</i>											
	P	P	P	P	P	P	E	P	P	P	P	P
Scotch Peloso	<i>(Regular Member as of 4/2021)</i>											
	P	P	P	P	P	P	P	P	P	P	P	P
Chris Larmoyeux	<i>((Regular Member as of 4/2021)</i>											
	P	P	P	P	E	P	P	P	P	E	P	P
Pamela Saba	<i>(Regular Member as of 4/ 2022 Alternate Member as of 4/2020)</i>											
	P	P	P	P	P	P	P	P	P	E	P	P
Harris Fried	<i>(Alternate Member as of 8/2022)</i>											
	P	P	P	E	P	P	P	P	E	P	P	P
Pamela Davies	<i>(Alternate Member as of 8/2022)</i>											
	P	E	P	P	P	P	E	P	P	P	P	P

LEGEND: P= Present
 E- Excused
 U= Unexcused Absence
 A= Absence pending classification as excused or unexcused
 X= No meeting date
 - = Not a member at time of meeting
 * = special session, attendance not mandatory
 Q = would have attended, but no meeting due to lack of a quorum
 C= Meeting cancelled due to Town Emergency
 V= Audio/Visual problems from Zoom meeting

CODE ENFORCEMENT BOARD

Next appointment: **January 9, 2024, Town Council meeting**

Openings advertised via news release: **October 20, 2023**

Deadline to submit applications: **Friday, December 29, 2023, by 5:00 p.m.**

Number of openings: **1 Alternate Member**

Applicants

<u>NAME</u>	<u>SEEKING</u>
Armand Harris	New Appointment

Current members and open seats

<u>NAME</u>	<u>TERM EXPIRES</u>
<u>Regular Members</u>	
Bram Majtlis, Chair	April 1, 2025
Scotch Peloso, Vice Chair	April 1, 2024
John B. McGowan	April 1, 2026
Linda K. Wartow	April 1, 2024
Martin I. Klein	January 1, 2026
Pamela Saba	April 1, 2025
Chris Larmoyeux	April 1, 2024
<u>Alternate Members</u>	
Vacant	March 1, 2025
Harris Fried	March 1, 2025

Highlighted in yellow=term currently expiring/vacant

**=Applied for promotion to regular member

BALLOT FOR APPOINTMENT OF **ALTERNATE** MEMBER(S)
TO THE CODE ENFORCEMENT BOARD
Town Council Meeting on **January 9, 2024**

Position(s) to be filled: 1 **Alternate Member**

Please circle one (1) from the list of names appearing below.

Individuals Who Have Submitted Applications:

Armand Harris

Signature of Town Council Member:

Town Council Member

Application for Service

Profile

Armand

First Name

Harris

Last Name

2275 South Ocean Blvd.

Home Address

106A

Suite or Apt

Palm Beach

City

FL

State

33480

Postal Code

armand19@comcast.net

Email Address

Mobile: (404) 372-8653

Primary Phone

Alternate Phone

Which Boards would you like to apply for?

Code Enforcement Board: Submitted

Question applies to multiple boards

I am a resident of the Town of Palm Beach (Initial below)

AH

Question applies to multiple boards

Please attach proof of Town of Palm Beach residency. Failure to attach proof of residency shall be grounds to reject your application. Proof of residency shall be either a copy of your Florida's Driver's License matching the address of your residence as shown on this application, a copy of a utility bill in your name at the residence address shown on this application, or by providing an original, fully executed and notarized Declaration of Domicile with this application.

Question applies to multiple boards

FL DL verified - PGG

Please upload proof of residency

Retired

Occupation

In what area of town do you live?☒ South

Interests/Experience

Why are you interested in serving on the Underground Utilities Task Force?

I am applying as an alternate member of the Town of Palm Beach Code Enforcement Board.

Question applies to Code Enforcement Board

Why are you interested in serving on the Code Enforcement Board?

To help maintain the integrity and beauty of Palm Beach, and to apply my expertise in the commercial and residential real estate industry.

Question applies to Code Enforcement Board

How many meetings of the Code Enforcement Board have you attended in the last year?

5

How many meetings of the Underground Utilities Task Force have you attended in the last year?

n/a

Please indicate if there are any periods of time for which you will be unavailable for meetings.

None, I am a full-time resident of Palm Beach.

Question applies to multiple boards

If you have served on any boards/commissions/committees in the Town of Palm Beach or elsewhere, please list them and include details such as length of service, attendance record, etc.

Board member, Atlanta International Museum of Art and Design - served for three years

Question applies to Code Enforcement Board

Do you have any personal experience with the Code Enforcement Board in the Town of Palm Beach or other jurisdictions? (Please explain)

None

Do you have any personal experience or special skills related to underground conversion projects? (Please explain)

I am applying as an alternate member of the Town of Palm Beach Code Enforcement Board.

Are you a member of any of the following organizations? (Check all that apply)

☒ Citizens' Association of Palm Beach

Present Occupation

Retired

No. of years

2

Past occupation(s)

See attached resume.

No. of years

Please provide details regarding your educational background:

BA in Sociology, Georgia State University, 1972

Question applies to Landmarks Preservation Commission, Code Enforcement Board

Do you have a degree in, or have you taken courses in, any of the following fields of study: (Check as many as are applicable) *

☒ None

Why do you feel you are qualified to serve on the Town's Underground Utilities Task Force?

I am applying as an alternate member of the Town of Palm Beach Code Enforcement Board.

[Armand Harris_Bio_10_24_23.pdf](#)

Upload a Resume

Have you ever been convicted or pled guilty or nolo contendere to a crime other than minor traffic violations?

☐ Yes ☒ No

If you are currently serving on a Town board, commission, or committee, please identify in the space below and check the "I Agree" box indicating that you will resign from that position if you are appointed to the position you are seeking in this application.

I agree that I will resign from the board, commission, or committee if I am appointed to the position I am seeking in this application.

☒ I Agree

Question applies to Code Enforcement Board

Why do you feel you are qualified to serve on the Town's Code Enforcement Board?

My three decades of experience in commercial and residential real estate, combined with my sound, fair and impartial judgement provides me with the ability to listen carefully to both sides.

Question applies to multiple boards

In the event you are applying to be a Regular Member and you are not successful, will you accept appointment as an Alternate Member should the Town Council wish to appoint you as an Alternate Member?

☒ Yes ☐ No

To enable Town Council to consider potential conflicts of interest, please list the family members who live and/or work in the Town of Palm Beach, including your spouse, parents, siblings or children.

My wife Sara Harris who serves on no town boards.

Demographics

Some boards and commissions require membership to be racially, politically or geographically proportionate to the general public. The following information helps track our recruitment and diversity efforts.

Ethnicity

☒ Caucasian/Non-Hispanic

Gender

☒ Male

Physically Disabled

☐ Yes ☒ No

I hereby certify that I have read the sections of the Town Code of Ordinances for the particular board/commission/committee that I have selected above and have noted the description of the board/commission/committee and its members' duties, and further I have read the regulations concerning absences and conflicts of interests. I certify the information given by me is true and complete to the best of my knowledge and belief. I understand that any falsification of material facts will be grounds for rejection of this application of dismissal after appointment.

☒ I Agree

Please provide a copy of BOTH SIDES of your Palm Beach County Voter Registration card, which shows your Town of Palm Beach address, with your application. (Unless you are applying as a non-resident with a special skill in undergrounding).

****Please note that the Board/Commission applications will expire on December 15 of each year.**

UNDERGROUND UTILITIES TASK FORCE (UUTF)

UUTF is charged with the investigation and review of the undergrounding of utilities throughout the Town. Members must be residents and electors of the Town, however, one of the members may be a non-resident of the Town provided said member has a special skill related to undergrounding. Members and alternate members shall be appointed to office for three-year terms.

Question applies to Code Enforcement Board

Please attach proof of residency (as listed above) with this application.

Please note that Board/Commission applications will expire on December 15 of each year.

CODE ENFORCEMENT BOARD

Hears cases involving violations of the Town Code and ordinances and imposes administrative fines and other noncriminal penalties where a pending or repeated violation exists. Members must be residents and are appointed by Town Council on the basis of experience or interest in the fields of zoning and building control. The Board includes, whenever possible, an architect, business person, engineer, general contractor, realtor, subcontractor, general member, or person with experience in the field of public health. In addition, the Town Council may appoint two alternate members for the purpose of serving in the absence of any of the board members. Members (and alternate members) shall be appointed for terms of three years. A member of the code enforcement board shall not be appointed for more than two consecutive three-year terms, but shall be eligible for reappointment upon the lapse of nine months after the expiration of the member's second consecutive three-year term.

ARMAND HARRIS
2275 S. Ocean Blvd.
Unit 106A
Palm Beach, FL 33480
(404) 372-8653
Armand19@comcast.net

Born and raised in Savannah, GA, I launched my career and family life in Atlanta and spent more than three decades in the commercial and residential real estate industry.

After retiring from full-time work, my wife Sara and I along with Beau, our standard poodle, relocated to the Town of Palm Beach in 2020 where we live full time in The Reef. Please note that we have been regular visitors of Palm Beach for more than four decades.

I would like to be more involved in this beautiful community that I am proud to call home, and I am therefore humbly requesting that I be considered for the position of Alternate Member of the Town of Palm Beach Code Enforcement Board.

As a relatively new member of our community, I have been following the Code Enforcement Board hearings via the Town's website. I am impressed by the professional way these meetings are conducted. By listening to the meetings, I came to understand the importance of the work that is being done. Preserving the beauty and character of Palm Beach is something I am very interested in contributing to. I am confident that my professional skills and experience will be an asset for the Town.

A 1972 graduate of Georgia State University with a Bachelor of Arts Degree in Sociology, my work experience is as follows:

- ◇ Vice President of Marketing, Manhattan Industries, 1972-1978
- ◇ Vice President of Facilities, John Portman & Associates, 1979-1993
- ◇ Commercial Real Estate Sales, Richard Bowers & Company, 1993-2008
- ◇ Commercial and Residential Real Estate Sales, Keller Williams, 2008-2022
- ◇ Member of the Sales and Rental Committee of The Reef Condominium Association, Palm Beach, 2021 - present

TOWN OF PALM BEACH

Town Council Meeting on: January 9, 2024

Section of Agenda

Minutes

Agenda Title

Town Council Meeting Minutes

Kelly Churney, Acting Town Clerk

- a. December 8, 2023, Special Town Council Meeting Minutes
- b. December 12, 2023, Town Council Meeting Minutes
- c. December 13, 2023, Town Council Development Review Meeting Minutes

Presenter

ATTACHMENTS:

- ▣ **December 8, 2023 Special Town Council Meeting Minutes**
- ▣ **December 12, 2023, Town Council Meeting Minutes**
- ▣ **December 13, 2023 Town Council Development Review Meeting Minutes**



MINUTES OF THE SPECIAL TOWN COUNCIL MEETING HELD ON DECEMBER 8, 2023

I. CALL TO ORDER AND ROLL CALL

The Special Town Council Meeting was called to order at 9:31 a.m. in the Town Council Chambers. On roll call, all council members were found to be present.

II. PLEDGE OF ALLEGIANCE

Council President Zeidman led the Pledge of Allegiance.

III. APPROVAL OF AGENDA

Motion was made by Council Member Cooney and seconded by Council Member Araskog to approve the Agenda. On roll call, the Motion passed unanimously.

IV. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT

There was none.

V. RESOLUTIONS

- A. RESOLUTION NO. 150-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida Declaring the Results of the Town Caucus; Directing the Acting Town Clerk of Said Town to Place the Names of Certain Candidates on the Official Ballot for the General Election to be Held in Said Town on the Nineteenth Day of March, 2024; Adopting the Official Ballot to be Used in Said Election; Authorizing the Acting Town Clerk to Arrange for Voting Equipment to be Used in Said Election; and Directing the Mayor of Said Town to Issue a Proclamation of Said Election, Naming Therein the Candidates Nominated and Named in the Resolution; and Designating the Acting Town Clerk and Deputy Town Clerk of the Town of Palm Beach and the Supervisor of Elections of Palm Beach County, or Designees to Serve as the Canvassing Board.

Kelly Churney, Acting Town Clerk

Council President Zeidman read Resolution No. 150-2023 by title.

Motion was made by Council Member Crampton and seconded by Council Member Araskog to approve Resolution No. 150-2023. On roll call, the Motion passed unanimously.

VI. PROCLAMATION

- A. Mayor's Proclamation to the Qualified Electors of the Town of Palm Beach Regarding the Town Election of March 19, 2024
Kelly Churney, Acting Town Clerk

Mayor Danielle H. Moore read the Proclamation declaring that there will be a General Election in the Town of Palm Beach on March 19, 2024 between the hours of 7:00 a.m. and 7:00 p.m. for the purpose of electing one Town Council Person for Group 3 for a two-year period. The candidates' names for the ballot will be John David Corey and Bridget Moran. The names of the precincts and polling locations were announced.

Motion was made by Council Member Araskog and seconded by Council Member Cooney to approve the Mayor's Proclamation to the Qualified Electors of the Town of Palm Beach, Florida declaring that there will be a General Election on March 19, 2024. On roll call, the Motion passed unanimously.

VII. ANY OTHER MATTERS

Council President Zeidman congratulated Council Members Lew Crampton and Bobbie Lindsay on being re-elected for another two-year term without opposition. She also congratulated candidates John David Corey and Bridget Moran, who were in attendance, on being nominated as candidates for Group 3. Council Member Araskog also congratulated the candidates.

VIII. ADJOURNMENT

Motion was made by Council Member Araskog and seconded by Council Member Cooney to adjourn the Special Town Council Meeting at 9:40 a.m. On roll call, the Motion passed unanimously.

APPROVED

Margaret A. Zeidman, Town Council President

ATTEST:

Kelly Churney, Acting Town Clerk

Date



TOWN OF PALM BEACH

MINUTES OF THE TOWN COUNCIL MEETING HELD ON TUESDAY, DECEMBER 12, 2023

I. CALL TO ORDER AND ROLL CALL

The Town Council Meeting was called to order at 9:30 a.m. On roll call, all council members were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Deputy Town Clerk Gayle-Gordon gave the Invocation and Council President Margaret A. Zeidman led the Pledge of Allegiance.

III. MODIFICATIONS TO THE AGENDA

The following modifications were made to the agenda:

- 1) Item No.X.C.1 Discussion Regarding Traffic Issues and Presentation of Mitigation Plans

TIME CERTAIN: 11:30 AM

Summary added to the backup.

- 2) Item No. X.C.2 Discussion Regarding Agreement for Legal Fees with Jones, Foster
Addition of RESOLUTION NO. 157-2023
- 3) Withdrawal of ORDINANCE NO. 023-2023

IV. APPROVAL OF AGENDA

Motion was made by Council Member Araskog and seconded by Council Member Crampton to approve the Agenda, as amended. On roll call, the Motion passed unanimously.

V. RECOGNITIONS

- A.** Recognition of Zachary Shipley for Service on the Underground Utilities Task Force
Danielle H. Moore, Mayor
- B.** Recognition of John B. McGowan, Jr. for Service on the Underground Utilities Task Force
Danielle H. Moore, Mayor
- C.** Recognition of Leslie Shaw for Service on the Underground Utilities Task Force
Danielle H. Moore, Mayor

Mayor Moore thanked all the retiring members of the Underground Utilities Task Force. She presented plaques of recognition to Zachary Shipley, John McGowan, Jr., and Leslie Shaw.

VI. COMMENTS OF MAYOR DANIELLE H. MOORE

Mayor Moore thanked the Police Department for holding a Safety Day on Saturday, December 9, 2023. She also expressed appreciation to the Police and Fire Foundation.

Mayor Moore recognized the following employees for their years of service to the Town:

Wayne Bergman, Director	(PZB)	5 years
Alex Vega, Sergeant	(PD)	5 years
David Watson, Lieutenant	(PD)	10 years
Fred Waymire, Sergeant	(PD)	10 years
Ryan Burgoon, Officer	(PD)	10 years
Dexter Munro, Equipment Op.1	(PW)	15 years
George Goatley, Water Res. Tech.	(PW)	15 years
Veronica Persaud, Accountant	(FIN)	10 years
Deborah Moody, Office Manager	(PZB)	25 years

Mayor Moore recognized the retirement of Mr. John “Skip” Randolph, Town Attorney. She said for the last 44 years, Mr. Randolph has served as the town attorney, providing legal counsel to forty-nine elected officials, seven mayors, six town managers, and countless staff members. She thanked Mr. Randolph for his incredible knowledge and devotion to the Town of Palm Beach. She stated he had consistently provided wise guidance.

Mr. Randolph advised Mayor Moore that his retirement was reluctant because of how much he had enjoyed serving the Town of Palm Beach. He thanked the town officials and Joanne O’Connor for stepping up to serve in the role of town attorney. He also thanked his wife and family for the support they have shown him during his years representing the town.

VII. COMMENTS OF TOWN COUNCIL MEMBERS

Council President Zeidman told Mr. Randolph that he had been an immeasurable help to her. She always felt that she could count on him for wise advice. She stated he had been a trusted and reliable friend.

Council President Pro Tem Lindsay stated her appreciation for Mr. Randolph. She said he had tremendous institutional knowledge, which has been so helpful in guiding the Town Council during their decision-making processes. She said he was a wonderful human being and had been

invaluable to the town. Council President Pro Tem Lindsay encouraged everyone to save the date of Monday, February 5, 2024, at 2:00 p.m. She stated that Dr. Ray Dorsey, the expert, and researcher on Parkinson's Disease, along with Dr. Bruce Lanphear, an accomplished Pediatric and Epidemiologist, will discuss toxic chemicals, pesticides, and the impact on children's health. She said the presentations would be live-streamed and recorded. She invited everyone to attend the presentations.

Council Member Crampton said hearing of Mr. Randolph's retirement was bittersweet. He said the town would miss Mr. Randolph, who was at the top of his profession and has been a good friend to everyone in town. He mentioned that in the November 26, 2023, issue of the Shiny Sheet, there was a letter written by former Mayor, Gail Coniglio, and ten other women. He read from the letter, "We have reached the critical crossroads to define our future. The delicate balance between progress and preserving our beloved Palm Beach, its beauty, small-time character, and elegance, will require thoughtful and managed growth." He said that Land Use Planners use the term *Carrying Capacity*, which relates to the sustainability of the environment or the community to oversee all that is presented. Council Member Crampton said he believed the town was at an inflection point. He said everyone would have to be more protective in the types of decisions being made for the town.

Council Member Araskog stated that Mr. Randolph's integrity and moral compass had led the way for everyone else to be moral and to have integrity. She thought Mr. Randolph had set an incredible example through his love for God, his love for his family, and his service to the Town of Palm Beach. She was admirable of Mr. Randolph's love for the community. Council Member Araskog stated the town was truly blessed to have been represented by Mr. Randolph. She thanked the town staff for their hard work every day. She also wished everyone, including residents, a Happy Hanukkah, a Merry Christmas, and a Happy New Year. She agreed with Council Member Crampton's comments about the letter he read. She believes the town is at a critical point, and she hopes there will be a new vision for the town with a comprehensive plan and new zoning code on the horizon. Lastly, Council Member Araskog apologized for the comments regarding Mrs. Ailes at a recent meeting. She said she has great respect for Mrs. Ailes and her integrity.

Council Member Cooney stated that Mr. Randolph had provided great guidance to him when he became active in local government. He said he would miss Mr. Randolph. He thanked him for his service.

Council President Zeidman mentioned the upcoming text amendments, and she requested education be provided relative to the procedure. She stated that the procedure is in the zoning code under amendments to the zoning code, Chapter 134, Article II, Division 5. She also said the Corradino Traffic Study is in draft form. She said the Town Council members could let staff know if they wanted to see the document. She stated that it would be important for staff to have an opportunity to read the study before a presentation to the Town Council.

VIII. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

Richard Sammons, 455 Worth Avenue, and a member of ARCOM, retroactively declared a conflict due to his working as a subcontractor for the Charette in February. He noted that he did indirectly work for the town and received compensation. Secondly, Mr. Sammons said one thing learned from the Charette was that in the North End RB district if a one-story home was built on a 10,000-square-foot lot, 1,000 square feet is left on the table. That inequity has caused every home to be two stories. He said limiting the second stories to fifty percent was thought to be a

good thing. While he agreed the town was under assault, he felt that a balance needed to be found between zoning, the RB, and development restrictions to the commercial core areas where there were already commercial streets. He felt this would allow for those things that give the town its character.

Council President Zeidman complemented ARCOM for the tremendous job they have done through working on the zoning code. She expressed concern with all the commercial projects being proposed in the town. She felt large projects could become regional destinations, in addition to being too large, too high, and monolithic in appearance. She said uses were allowed through the Special Exception process, and the council would review the list of Special Exception Uses.

Diane Buhler, Friends of Palm Beach, said this fall, with high seas and king tides, there has been an increase in medical waste on the beach. Microplastics are a more abundant reality than ever. She said since the summer refugee vessels have slowed, condominiums in the south end are installing bucket stands thanks to the help of the Citizens Association, and the contractor has eased clean-ups at the bridge by hiring image companies to clean. She informed the contractor that the Friends of Palm Beach would not remove the bags. She said the running total for trash removed from the beaches is over 33,000 pounds. A community clean-up is scheduled for this coming Saturday along Billionaire's Row.

Council Member Crampton referred to the southern bridge, where the plaque is located, two old billboards are dilapidated. He said the billboards are unsightly and should be removed. Mr. Brazil said he would contact FDOT. Council Member Cooney added that he had been asked to serve on the aesthetics committee for the southern bridge. He said the project has not been closed out. An updated landscaping plan had been put out to bid.

Council Member Araskog mentioned a thank you to the Police and Fire Foundation for Public Safety Day. She hopes an alert will be put out for future events because much new and valuable information was available to residents.

Mayor Moore recognized Mr. Doug Evans, Head of the Palm Beach Chamber of Commerce. She said he had done a remarkable job during his first year. She said the Chamber is a wonderful organization, and the Town's Employee of the Year will be announced on Monday, December 18, 2023.

IX. APPROVAL OF CONSENT AGENDA

Motion was made by Council Member Cooney and seconded by Council President Pro Tem Lindsay to approve the Consent Agenda, as amended. On roll call, the Motion passed unanimously.

A. MINUTES

1. Town Council Meeting Minutes
Kelly Churney, Acting Town Clerk
 - a. November 14, 2023, Town Council Meeting Minutes
 - b. November 15, 2023, Town Council Development Review Meeting Minutes
2. Approval of Major Matters Considered by the Architectural Review Commission at its Meeting of November 20, 2023

B. RESOLUTIONS

1. RESOLUTION NO. 151-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, approving an award to Coastal Protection Engineering LLC in a not-to-exceed amount of \$278,515 for professional services related to federal permitting of the Mid-Town Beach Nourishment Project.

Dean Mealy, Procurement and Contract Manager

2. RESOLUTION NO. 152-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, approving a retroactive payment authorization to the Municipal Public Safety Communications Consortium of Palm Beach County, LLC for annual membership dues in the amount of \$124,777.15.

Dean Mealy, Procurement and Contract Manager

3. RESOLUTION NO. 153-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, approving Police and Fire Departments radio replacement with Motorola Solutions utilizing the NASPO Value Point Cooperative Contract in the amount of \$1,479,388.91 for police radios, \$690,369.91 for fire radios and \$972,613 for dispatch consoles for a total price of \$3,092,371.82 which includes a \$50,000 trade-in allowance. Payment milestones will be \$2,061,581.21 upon issuance of contract and \$1,030,791.61 at final system acceptance no earlier than October 1, 2024.

*Dean Mealy, Procurement and Contract Manager – **Pulled and Heard as Item No. X.A.1***

4. RESOLUTION NO. 154-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, approving a purchase order to Kelly Tractor Company in the amount of \$357,400 and establishing a project budget of \$375,500 for the acquisition of a replacement Landfill Bulldozer.

Dean Mealy, Procurement and Contract Manager

5. RESOLUTION NO. 155-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, approving a purchase order to Kimley-Horn and Associates, Inc. for on-call consulting, permit compliance, sampling, and monitoring at the Skees Road and Okeechobee Boulevard Landfill Facilities in the annual amount of \$143,452 and establishing a project budget of \$160,000.

*Dean Mealy, Procurement and Contract Manager – **Pulled and Heard as Item No. X.A.2***

C. OTHER

1. Donation Acceptance from the Police and Fire Foundation
*Darrel Donatto, Fire Rescue Chief – **Pulled and Heard as Item No. X.A.3***
2. West Palm Beach Mobility Coalition
Bob Miracle, Deputy Town Manager -Finance and Administration
3. Permission to Close Country Club Road for Annual Inspection of the Delta-8 Stormwater Station and Permission to Close North Lake Way for Annual Inspection of Sanitary Sewer Stations Echo-1 & Echo-2

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

4. Recommending Dissolving the Underground Utilities Task Force

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

5. Authorization for 160 Royal Palm Way - Use of Right-of-Way During Season

*H. Paul Brazil, P.E., Director of Public Works – **Pulled and Heard as Item No. X.A.4***

X. REGULAR AGENDA

A. Matters Pulled from Consent Agenda: If needed

1. RESOLUTION NO. 153-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, approving Police and Fire Departments radio replacement with Motorola Solutions utilizing the NASPO Value Point Cooperative Contract in the amount of \$1,479,388.91 for police radios, \$690,369.91 for fire radios and \$972,613 for dispatch consoles for a total price of \$3,092,371.82 which includes a \$50,000 trade-in allowance. Payment milestones will be \$2,061,581.21 upon issuance of contract and \$1,030,791.61 at final system acceptance no earlier than October 1, 2024.

Dean Mealy, Procurement and Contract Manager

Council President Pro Tem Lindsay asked that staff explain the request because of the monetary amount of the purchase. Mr. Blouin explained that the request is for a 5-year contract for Police and Fire radios, and dispatch consoles. This is part of the town's membership with the Municipal Public Safety Communications Consortium of Palm Beach County, Inc. (MPSCC), and Member Municipalities. The Town of Palm Beach has been in this relationship since 2006.

Council Member Araskog asked what would happen if verifications failed. She noted existing fiber connectivity between police and fire which had not been verified, nor was guaranteed for specific bandwidth capacity. Andy Jadoo, Director of Information Technology, said anti-virus and fiber connectivity exist and are currently being used without issues. Council Member Araskog asked if additional costs would be associated with additional steps that need to be taken, as set forth in the contract. Mr. Jadoo said the consultants would be better able to answer these questions once they determine what additional things would be necessary to make the system operational. Council Member Araskog wanted to defer this item to next month. Bob Miracle said staff had been working with Motorola for several months and would like this item approved so a contract could be signed by the end of the calendar year. Council Member Araskog asked what any extra expenses might be for additional necessities listed within the contract. Captain William Rothrock, Police Department, said that staff had been testing Motorola's radios on the county system for several months, and the equipment had been working properly. He noted that Fire Rescue had some concerns about state laws and building connectivity, which had also prompted them to test the radios for the past two months. In addition to testing the radios, conversations with Motorola and their engineers had given staff great confidence that there would not be extraneous costs outside of what was quoted and secured by procurement. Mr. Blouin added that the town was previously on the Motorola system and will now be transitioning back to the system used by Palm Beach County and several other municipalities within the county.

Motion was made by Council President Pro Tem Lindsay and seconded by Council Member Crampton to approve Resolution No. 153-2023.

Council Member Crampton was interested in additional information about the warranty, training elements, and post-warranty services that would be necessary. Mr. Blouin responded that those details were incorporated into the contract.

On roll call, the Motion passed unanimously.

2. RESOLUTION NO. 155-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, approving a purchase order to Kimley-Horn and Associates, Inc. for on-call consulting, permit compliance, sampling, and monitoring at the Skees Road and Okeechobee Boulevard Landfill Facilities in the annual amount of \$143,452 and establishing a project budget of \$160,000.

Dean Mealy, Procurement and Contract Manager

Council Member Crampton asked for an update on the project. Mr. Blouin said there would be additional information on a future agenda. He said it would be costly for them to maintain the full bond, and the town staff believes it to be reasonable and fair to reduce the bond. That will be a Town Council decision, and staff will work with the Town Attorney to develop language for presentation to the council.

At this time Council Member Araskog requested a re-consideration of the Consent Agenda.

Motion was made by Council Member Araskog and seconded by Council Member Crampton to re-consider the Consent Agenda. On roll call, the Motion passed unanimously.

Motion was made by Council Member Araskog and seconded by Council Member Crampton to pull item no. IX.C.5. from the Consent Agenda. On roll call, the Motion passed unanimously.

Motion was made by Council Member Crampton and seconded by Council Member Cooney to approve Resolution No. 155-2023. On roll call, the Motion passed unanimously.

3. Donation Acceptance from the Police and Fire Foundation
Darrel Donatto, Fire Rescue Chief

Sean Baker, Assistant Fire Chief, said that the monies donated from the Police and Fire Foundation would be committed to the AED program, making Palm Beach a safer community. AEDs would be strategically placed throughout town to improve response rates for sudden cardiac arrest. He said the local businesses and residents would be trained in using the AED equipment. Council President Zeidman asked if the AED units would be available for purchase, and Assistant Chief Baker said yes. In addition, dispatchers would be prepared to direct people in need to the AED units.

Council Member Araskog asked if, when it comes to private homes and multi-family residences, the program would be first come, first serve. Mr. Blouin said this agenda item is for acceptance. The intent of the donation and details are still being

worked out with the foundation.

Council Member Cooney confirmed that the AED units would be placed in public gathering spaces in addition to private locations. He asked that staff ensure the Town Council sees the design for any free-standing AED units before installation.

Motion was made by Council Member Cooney and seconded by Council Member Araskog to approve acceptance of the donation from the Police and Fire Foundation. On roll call, the Motion passed unanimously.

4. Authorization for 160 Royal Palm Way – Use of Right-of-Way During Season
H. Paul Brazil, P.E., Director of Public Works

Council Member Araskog asked to hear from the Police Department about the loss of seven metered spaces. Mr. Brazil responded that this would be like Palm Beach Hotel where there is scaffolding and a work zone inside the scaffolding. He said pedestrians would walk around the scaffolding.

Motion was made by Council Member Cooney and seconded by Council Member Araskog to authorize the use of right-of-way during season for 160 Royal Palm Way. On roll call, the Motion passed unanimously.

B. Old Business

1. Town-Wide Undergrounding Project - Review of Project and Dashboard, Summary of Project Status
H. Paul Brazil, P.E., Director of Public Works

Patricia Strayer, Public Works, stated there was no additional information on moving forward with the undergrounding project. She said Phase III would be moving forward with conversions, and Phase V north and south would include energizing the underground network. Conversions in those areas have not begun. Phase VI north is significantly the construction and drilling, which have already exceeded 50 percent. Residents may feel the impacts of Phase IV south, as construction progresses. In dealing with Florida Power and Light (FPL) as far as trading out the streetlights, they would do so without delay or additional cost.

Council Member Cooney asked about lane closures on some of the main streets throughout town. Ms. Strayer said there was some minor drilling needed in Phase IV South. There should be nothing on County Road and little on Cocoanut Row. They are trying to tie in Phase IV equipment and as to Phase V on Royal Palm Way, they are working on the final splicing of switch cabinets to make it possible to energize. Unfortunately, manual splicing requires a lane for safety. Council Member Cooney asked about a section at the north end where the pavement had been completed, inquiring if reflectors would be installed. Ms. Strayer said replacements only include what was previously there. She said the reflectors would be installed after completion of the permanent striping.

Council Member Araskog asked about 52 of 117 easements, with 61% of the design completed. Ms. Strayer said Phase VIII is moving much slower than anticipated,

but a significant increase was being experienced since people were returning to the island for the season. Staff anticipates a significant increase during the next three months. Council Member Araskog thought it would be important for staff to check areas with old systems and conduits. She said there was some concern after the fire on El Vedado Road. Ms. Strayer responded that as to the specific issue with the fire in the conduit, she did not know what caused it but going in to physically check them could cause more damage to the older wires and conduits.

2. RESOLUTION NO. 156-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, approving additional funding to Kimley-Horn and Associates, LLC in the amount of \$50,000 for professional engineering on an as-needed basis related to the Water Supply Feasibility Study for a total award amount of \$666,380.

Dean Mealy, Procurement and Contract Manager

Mr. Brazil said staff has been working with Kimley-Horn on this water supply feasibility study for almost four (4) years. Kimley-Horn was selected through a competitive bidding process. The job was awarded in 2020 for \$316,000, and since then, the staff has recommended, and the Town Council has approved three change orders, each for \$100,000. The staff is at the point of initial negotiations with the two entities, and the project is where the staff had thought it would be. To secure the assistance of Kimley-Horn in the future, an additional Change Order would have to be approved in the amount of \$50,000. This would maintain their services through negotiations, for additional public meetings, and for any additional technical assistance that may be necessary, as a determination is being made about who will supply water to the town.

Motion was made by Council Member Cooney and seconded by Council Member Crampton to approve Resolution No. 156-2023. On roll call, the Motion passed unanimously.

3. Updated Comprehensive Parking Plan
Lew Crampton, Town Council Member

Council Member Crampton stated that the ride-share service, Rove, will not be implemented in town. The parting of ways was amicable, and they will be moving to another area to offer their services.

Lieutenant Paul Alber, Police Department, presented updates about parking stickers that had been sold and signage that had been installed. He shared some real-time data collected from the high-performing parking zones within the town. November 2023 over November 2022, there was a 67% increase in revenue generated in the 200 and 300 blocks of Peruvian Avenue. This data demonstrated that people were using paid parking areas quite a lot. Statistics provided were based on Transaction Type Breakdown, Device Breakdown, Parking Amount Distributions, and Parking Durations Breakdown. The data showed that people parked on Peruvian for quite a while. Lt. Alber said paid parking is working well in the business district. Significant data collection is underway from the 200 and 300 blocks of Peruvian Avenue, allowing staff to determine how each street performs in terms of the

parking program. This would allow for necessary adjustments to the program.

Council President Pro Tem Lindsay thought it was encouraging that people were adjusting to ParkMobile. She also thought the times that people were using paid parking were relevant. She mentioned that no additional signage would be installed. The existing signposts would be used for any new signage.

Council Member Araskog asked if patrons could extend past the paid parking time. Lt. Alber said a patron may not extend beyond 2 hours. The vehicles would have to relocate outside that zone to start a new parking period.

Council Member Cooney asked if data about the percentage of parking areas frequented by residents would be available. Robert Miracle, Deputy Town Manager – Finance and Administration, said that zip codes may be retrieved from the credit card payments for people paying for parking. Council Member Cooney asked if he could refer valet parking operators to Lt. Alber, who said yes.

At the corner of Brazilian and S. County Road, on the west side of the intersection, Council Member Cooney said there used to be one space, but up to three vehicles have been parked in that area. Lt. Alber was aware of the problem, and he said the Police Department would investigate it. He noted that there should be no parking spaces between the curb and the crosswalk to allow for visibility.

Council President Pro Tem Lindsay asked if the newly marked parking spaces were larger than before. Lt. Alber said no.

Council Member Cooney said on Southern Causeway Blvd., there was free two-hour parking. He asked if ParkMobile kiosks would be installed, and Mr. Miracle responded that was the plan.

Council President Pro Tem Lindsay asked if there was an opportunity for valet parking on Worth Avenue during the upcoming season. Mr. Blouin said that a year or so ago, an RFP was published for potential valet operations, but details could not be worked out. Recently, the owner of the Apollo parking lot was contacted about valet parking and offered a space on Worth Avenue with some signage for advertisement. He said the staff had tried and was still willing to collaborate with a partner. Lt. Alber stated that since the valet stand was previously located on Worth Avenue, the Police Department has more than doubled its presence along that street.

4. Landscape and Lawn Maintenance Request Earlier Start Time at 8:30 AM on Weekdays.

Margaret A. Zeidman, Town Council President

Colin Goldsmith, 2116 Bellcrest Court, Royal Palm Beach, FL, Botanica Landscaping spoke regarding the challenges faced by landscaping servicers. He said it is difficult to finish jobs with a 9:00 a.m. start time. He said an earlier start on maintenance would significantly improve their ability to get into town and help mitigate and ease congestion during morning hours.

Council President Zeidman noted that it may be to the advantage of the town and its residents to consider an earlier start time for landscape and lawn maintenance.

Council Member Araskog said she would only be okay with quiet work. She said one of the reasons the start time is 9:00 a.m. is because of the median age in the town.

Council Member Crampton felt that flexibility was important, and he was open to having the Ordinances, Rules & Standards Committee (ORS) look at the possibility of adjusting the start time and making a recommendation to the Town Council.

Council President Pro Tem Lindsay said that not every landscaper obeys the rules. She said she had spoken to several landscapers with electric blowers in their trucks but had chosen not to use them. After speaking with citizens' associations and owners of large estates, she thought the only area where the time could be adjusted would be on the island's south end. She noted that the gas leaf blowers, mowers, and hedge trimmers are loud pieces of equipment.

Mayor Moore was willing to return this request to ORS, but she did not think a new conclusion would be reached.

Council Member Cooney was willing to return this request to ORS for consideration. He said that, unfortunately, there will always be companies that do not follow the rules. He agreed that flexibility is important.

Council President Zeidman did not object to a half hour adjustment. She asked Mr. Goldsmith if he thought that he would be getting off the island earlier. Mr. Goldsmith said he thought a larger percentage of the box trucks would be off the island earlier although they would need to have a trial period. He thought there was potential to get some of his trucks off the island as early as 2:30 or 3:00 in the afternoon. Council President Zeidman was not ready to decide.

Council Member Crampton asked if there was an association of landscape professionals/organizations. He said peer intervention and traffic mitigation would motivate the Town Council to consider the requested change.

The consensus of the Town Council was to direct Mr. Goldsmith to return to next month's council meeting with confirmation of an Association of Landscape Professionals and a summary of actions to be accomplished by the association's members which would benefit the residents of the town.

Council Member Araskog asked to hear from the Police Department about morning traffic. Mayor Moore noted that day school students were dropped off between 7:30 and 8:00 a.m. and picked up between 2:45 and 3:05 p.m., and public school picks up between 1:45 and 2:15 p.m.

C. New Business

1. Discussion Regarding Traffic Issues and Presentation of Mitigation Plans

TIME CERTAIN: 11:30 AM

Council President Zeidman stated that on December 4, 2023, Police Chief Caristo, Major Scanlon, and Lt. Watson and herself met with the Secret Service, Mar-a-Lago Event Coordinator Niki Russell, and Harvey Oyer, Attorney, to discuss what went wrong during two recent occasions where traffic was at a standstill and best ways to mitigate the potential for this happening in the future. She said that Mr. Oyer would present a redlined version of the Declaration of Use in January, reflecting changes agreed upon during the meeting. She summarized the changes that would be more stringent, which included: (1) Between 3:00 and 6:00 p.m., Monday – Thursday, no events; (2) Friday evening dinner may be served at 6:00 p.m.; (3) Monday – Thursday, dinner must be served later than 6:00 p.m.; (4) Agreed to use the Bath & Tennis Club (B&T) Parking Lot for events over 250 guests and notify the Police Department in advance of every event, and whether the B&T has been reserved for them; and (5) Provide an alternate plan if the B&T Parking Lot is not available.

Chief Caristo stated that a compromise was reached due to the meeting with personnel at Mar-a-Lago, even though additional changes may be warranted. He said since the recent events, issues have been corrected, and that is what prompted the meeting. The Police Department would contact representatives of Mar-a-Lago, and any issues would be addressed immediately. Chief Caristo presented some statistics related to issues that cause traffic back-ups in the subject area. He said on average, there are 70,000 vehicles on the island per day.

Chief Caristo said last February, he and Mayor Moore drafted a letter to the US Coast Guard requesting delayed bridge openings during peak hours. They looked at the north bridge and agreed to delayed openings during peak hours on the Flagler Bridge beginning in August. Since no negative comments were received, Chief Caristo and Mayor Moore submitted another letter requesting delayed openings for the Southern and Royal Park bridges. In October, the US Coast Guard agreed to delayed openings on a trial basis. They informed the staff that they had submitted a Notice of Opposed Rulemaking, which would permanently allow for delayed openings of all three bridges. The Southern and Royal Park bridge changes would be implemented in January, 2024.

Chief Nicholas Caristo, PD, discussed five traffic issues and mitigation strategies under discussion, which included:

- Changes to roadways for safety: one way east on Sunset Avenue and right turn only from Brazilian onto South County Road.
- Pending change to the one hundred block of Barton Avenue to mitigate traffic backup on North County Road. The changes would go into effect on December 15, 2023.
- Flagler Memorial (North) bridge now opens once an hour during rush hour, and there is potential for the same on the Middle and Southern bridges.
- Synchronization of lights in Town and with West Palm Beach.

Daniel Fairbanks, 138 Chilean Avenue, spoke regarding traffic backups on South Ocean Boulevard.

Chief Caristo said the Town Council did produce a traffic management plan last May, and the plan is in place. There should be significant improvements in the coming year. Mr. Blouin emphasized that although staff is trying to mitigate traffic, there are going to be traffic issues on the island. He said there are always traffic problems that back up during rush hour. He pointed out that even with no events at Mar-a-Lago, there are still traffic issues.

Council President Zeidman said that having the bridge openings reduced during rush hour would make a difference. She also believed the concessions reached in the recent meeting would make a difference. Council President Zeidman noted that monitoring of the situation would still be necessary.

Jimmy Zisson, 3400 South Ocean Boulevard, remarked that he could not understand why more residents were not attending town council meetings. He said everyone understands that the traffic problems are complicated. He asked who is responsible for traffic management in Palm Beach.

Leslie Evans, 256 Worth Avenue, Suite 314, representing Dr. Jerry Lemoire and his wife, who live in the one hundred block of Clarke Avenue. He discussed the situation on Barton Avenue, where residents should have been notified in November when there was an article in the Shiny Sheet. He suggested that resident opinions be taken into consideration.

Bill Walde, 141 Barton Avenue, asked to see a comprehensive plan for the traffic issues. He requested that Chief Caristo give the residents in the 100-block information about what would happen, particularly with parking. Mr. Walde thought the traffic may be pushed down to South County and Royal Palm Way. He thought the impact should be evaluated by eliminating two-way traffic. He discussed scenarios that he asked Chief Caristo to consider with the proposed change in traffic pattern. Chief Caristo said that staff would monitor traffic, including car counters and speed measurements on all subsequent streets, including the one hundred block of Barton. The data collected would be reviewed with the goal being to minimize the impact on the town's residents. The objective is to move traffic, keeping traffic flow on the state roadways. Mr. Walde reiterated the importance of the town communicating with the residents on Barton Avenue.

Council President Zeidman expressed concern about vehicles traveling fast on Barton, in the middle of the block.

Council Member Crampton said Oleander Avenue, a very narrow street, needed to be added to the process. He has received correspondence from people who cannot get in and out of their driveways at times. Chief Caristo reported that in 2023, the number of citations issued is approaching fifty-sixty.

Council President Pro Tem Lindsay had noticed that residents routinely skip Barton Avenue because of the queue. She said everyone else fans out using Clark, Seabreeze, and Seaspray Avenues. She was concerned about taking Barton out of

the plan because everyone would be pushed to the other three streets. She suggested watching to see what happens if Barton is removed from the plan. She said one of the factors affecting Mar-a-Lago traffic was the construction projects on the ocean close to the north of Mar-a-Lago. She wondered if earlier start dates should be considered, to get the construction workers off the island earlier in the day. Council President Pro Tem Lindsay referred to the Breakers lights on South County. For traffic heading northbound and southbound, when one light turns, both lights turn. She asked if the vehicles would be open to waiting a little longer. She suggested during the review that Chief Caristo look at tweaking those lights to optimize the traffic flow.

Council Member Cooney acknowledged that the Mar-a-Lago Declaration of Use needed to be amended. He said his inclination was that the Town Council was going to sit with the plan for a full season to see how the proposed traffic management plan was working to accommodate traffic flow and stacking of vehicles.

2. Discussion Regarding Agreement for Legal Fees with Jones, Foster

RESOLUTION NO. 157-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Memorandum of Understanding and Agreement and Fee Agreement with Jones Foster, P.A.; Authorizing the Town Council President to Execute the Memorandum of Understanding and Agreement; Authorizing the Town Manager to Execute the Fee Agreement; Providing an Effective Date.

Margaret A. Zeidman, Town Council President

Council President Pro Tem Lindsay asked how long the proposal is good. Ms. O'Connor suggested CPI adjustments be incorporated into the agreement with Mr. Miracle's guidance.

Council President Zeidman asked Ms. O'Connor to explain her plan to educate her associates for the various boards and commissions. Ms. O'Connor had identified two associates who do similar work for other municipalities. During the next couple of months, she will accompany those associates to the meetings while getting to know everyone. The team will then meet, and she will be in close contact with Mr. Bergman throughout the process.

Anita Seltzer, 44 Cocanut Row, recognized and thanked Attorney Skip Randolph for his faithful service to the Town of Palm Beach. She expressed concerns about Ms. O'Connor not attending all the meetings. She was concerned about how information would be transferred from one board/commission to another.

Mayor Moore stated that as a caveat to the contract, Attorney O'Connor should attend any meetings of ARCOM or Landmarks Preservation Commission meetings pertaining to commercial projects. Ms. O'Connor agreed to attend.

Motion was made by Council Member Cooney and seconded by Council Member Crampton to approve Resolution No. 157-2023, and the agreement regarding legal fees being set for the next two (2) years after which returning to the Town Council for discussion of potential CPI increase. On roll call, the

Motion passed 4-0 with Council Member Araskog absent.

XI. ORDINANCES

A. Second Reading

1. Proposed Ordinance to Amend Chapter 46 of the Town Code Relative to Fire Prevention and Protection

ORDINANCE NO. 023-2023 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 46, Fire Prevention and Protection in Accordance with Florida Statute 633.202 and 633.208 the "Florida Fire Prevention Code" Adopted by the State of Florida Fire Marshall In Chapter 69A-60 Of the Florida Administrative Code with Local Amendments, National Fire Protection Association National Fire Code - N.F.P.A. 1, Florida Current Edition; And National Fire Protection Association Life Safety Code - N.F.P.A. 01, Florida Current Edition; Including Amendments To Sections 46-32, 46-33, 46-36, 46-66, 46-68, 46-69, 46-70, 46-71, 46-72, 46-73, 46-74, 46-75, 46-76, 46-77, 46-78, 46-80, And 46-82 All As Provided In Exhibit A Attached; Providing For Severability; Repealing All Ordinances Or Parts Of Ordinances In Conflict Herewith; Providing For Codification; And Providing For An Effective Date.

Darrel Donatto, Fire Rescue Chief

This item was withdrawn.

B. First Reading

1. Proposed Ordinance to Amend the Town's Equipment Replacement Fund

ORDINANCE NO. 027-2023 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, providing for an Amendment to the Town's Equipment Replacement Fund Adopted for the Fiscal Year Commencing October 1, 2023, and Providing an Effective Date.

Bob Miracle, Deputy Town Manager - Finance and Administration

Mr. Miracle explained the item and advised that this budget amendment would allow for the first installment payment for the police and fire radio equipment.

Council President Zeidman said that in February, there would be a tax and finance meeting to look at reserves with Mr. Miracle's guidance.

Motion was made by Council Member Crampton and seconded by Council President Pro Tem Lindsay to approve Ordinance No. 027-2023 on First Reading. On roll call, the Motion passed 4-0 with Council Member Araskog absent.

XII. ANY OTHER MATTERS

XIII. ADJOURNMENT

Motion was made by Council Member Cooney and seconded by Council Member Crampton to adjourn the Town Council Meeting of December 12, 2023, at 3:12 PM. On roll call, the Motion 4-0 with Council Member Araskog absent.

APPROVED:

Margaret A. Zeidman, Town Council President

ATTEST:

Pat Gayle-Gordon, Deputy Town Clerk

Date



TOWN OF PALM BEACH

Minutes of the Development Review

Town Council Meeting

Held on December 13, 2023

I. CALL TO ORDER AND ROLL CALL

The Development Review Town Council Meeting was called to order on December 13, 2023, at 9:31 a.m. On roll call, all elected officials were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Acting Town Clerk Churney gave the invocation. Council President Zeidman led the Pledge of Allegiance.

III. COMMENTS OF MAYOR DANIELLE H. MOORE

Mayor Moore did not have any comments.

IV. COMMENTS OF TOWN COUNCIL MEMBERS

The Town Council Members wished everyone a Merry Christmas, a Happy New Year, and a Happy Holidays.

Council President Zeidman recognized the Preservation Foundation of Palm Beach. She stated there was a new position, Director of Public Affairs, recently filled by Mackey Reed. She asked Amanda Skier, President and CEO of the Foundation, to talk about the new position and future changes in the foundation.

Amanda Skier stated that the foundation staff realized many changes were happening in town. They had been working to respond to the needs of the community and requests from members to be more involved in the town meetings. The Preservation Foundation Executive Committee was committed to advocacy and had created the Director of Public Affairs position to assist in keeping the foundation up to date on various goings on at Planning and Zoning, major commercial projects at the Architectural Commission (ARCOM), and conversations at Town Council meetings. She stated that Aimee Sunny, Director of Education, would assume the new title of Director of Preservation and Planning. Ms. Sunny would be dedicated to the Landmarks Preservation Commission (LPC) and advising on

other matters, including major commercial projects presented to ARCOM. She and Ms. Reed would be working closely. The Foundation was pleased to commit additional resources to help the Town Council guide the town through this critical period while preserving the town's character.

V. COMMUNICATIONS FROM CITIZENS – 3-MINUTE LIMIT, PLEASE

David Kelso, 255 Monterey Road, spoke about a demolition at 249 Monterey Road, followed by a huge, black 20' tall, 100' long construction screen on all four boundary lines of the property. At the time, Michael Peacock, the owner, did not have a permit. Code Enforcement did not inspect the site, and thirty days later, in August, under town ordinance, the fence should have been removed and the property sodded and irrigated until a building permit was issued and construction began. Code Enforcement did not inspect or cite the violation. Mr. Peacock should have been warned of non-compliance in September, but Code Enforcement did not inspect or cite the continuing violation. In October, with no building permit and the fence still in place, Mr. Peacock should have been sanctioned and fined for his continuing violation of town ordinances. Code Enforcement did not inspect, and no sanctions or fines were issued. In November, nothing had changed. On November 30, 2023, a building permit was issued. After Mr. Kelso called President Zeidman, he was informed that on December 11, 2023, Code Enforcement had finally inspected the site. Code Enforcement had advised Mr. Kelso that this violation would be discussed at their January meeting, but still no signs of construction. In the meantime, the residents who live on Monterey Road and some on Colonial Lane have had to live with the ugly construction site for six months, and the property owner has gotten away with knowingly flouting the town ordinances. Mr. Kelso had concluded that the current "real estate construction and development complex" had overwhelmed the town's administrative and supervisory capability. Property owners and the real estate design and construction complex know this and know they can game the system without any consequences. He asked how accountability would be enforced on the Code Enforcement division and how the Town Council would keep this type of scenario from recurring. Mr. Kelso asked the Council, "Can you understand why residents have lost confidence in your 'willingness' and 'ability' to protect their interests."

Council President Zeidman stated that the Town Council understood what was occurring on Monterey. She said that in response to what was going on, the Town tried to enact a Zoning in Progress while undergoing code review. She said the accusation that the Town Council did not understand was offensive and inappropriate. She said that every time Mr. Kelso had contacted anyone on the Town Council, he had received an appropriate response within the confines of the law. She could not agree more that the Code was flawed, but she said it must be noted that the Code was from 1979. She also wanted to avoid fingers being pointed toward the Town Council because of variances being granted. She said those variances must be given because of how the Code was written. She stated that the Town Council was doing its best to protect its residents. Council President Zeidman noted that this situation was presented to Mr. Bergman and the Town Council, and a determination was sought as to what the problems were with the ordinances or the process. She said issues were identified, and she agreed that the property was not sodded, irrigated, or adequately screened. She stated it was important for the accusations to stop, but more importantly, she wanted the Town Council and the Town Staff to respond in a helpful manner. She said a Zoning in Progress would have stopped some of the problems, but the town would also have been sued.

Mr. Bergman, Director of Planning Building and Zoning, stated that Mr. Kelso raised good

points that showed flaws between the various communications and departments. A demolition project involved the Planning, Zoning, and Building staff, but also Public Works for the staff that handles the right-of-way permits and Code Enforcement staff. He said that sometimes the Town could do a better job communicating between departments. The staff had worked on some changes and would like to present to the Town Council very quickly to close some loopholes in the demolition process. He said it was common for builders to demolish so they could begin construction immediately, alleviating the need to sod and irrigate the property. Other property owners need time between the demolition and when the construction project starts. He said the language in the code must be tightened up, and better coordination needs to be implemented between the town departments. Mr. Bergman said an internal policy may be put into place, but the ordinance would have to be amended by the Town Council.

Council Member Araskog commented that there had been challenges in finding people to check on the sites. She asked if the town needed to hire another person. She was not offended by Mr. Kelso's comments. Council Member Araskog said it was also a problem that when something was reported to Code Enforcement, it could take three months to get to a Code meeting. Until a case gets to Code Enforcement, neither the Town Council nor Code Enforcement can do anything about a violation because of the laws of due process. She felt bad for everyone being impacted by this situation. In addition, Council Member Araskog asked Mr. Bergman what was being done about getting construction site monitors on board. Mr. Bergman said he would have to check with Code staff and the Police Department to find out where they are in their hiring process for construction site monitors. Council Member Araskog thought a rush should be put on staffing the positions.

Council President Zeidman noted that part of the problem was the lack of qualified applicants to fill the code enforcement positions. As said before, she reiterated that since Monterey Road and Colonial back up to each other, they must be carefully monitored. President Zeidman expressed impatience with the lack of attention being paid to the residents of Monterey and specifically requested that this situation be remedied.

Council Member Crampton said residents were encouraged to let the Town Council know where things were not working. He said it did appear that the issue in this situation was execution. He thought that execution was the key. He said the staff engaged in this exercise needed to work to make the situation better, promptly. Council Member Crampton requested something in the council backup to show how Code Enforcement, Public Works, Planning Zoning and Building, and all other departments function together.

Anita Seltzer, 44 Coconut Row, stated that ARCOM was forced to consider a commercial project in February that required a special exception and variances. She said it was not in compliance with the comprehensive plan or Worth Avenue Guidelines. The commissioners sent the project back to the Town Council in its entirety so that they could properly review the architecture within their ordinance if and when the application was presented to them again. As a result of this and another application in May, the Town Council decided to require that commercial properties be presented to the council first for deliberation. Despite the fanfare, four town council members voted last month to send a commercial project to ARCOM with unresolved zoning issues, impacting the plan since it cannot be legally built as presented. ARCOM and the other commissions serve at the pleasure of the Town Council. The Council has authority, but that comes with responsibility. Ms. Seltzer felt there may be a disconnect between what the Town Council says and what it does. She said it was as if the council discussion in May had never taken place. All the boards and commissions need

to be properly supported and protected to deliberate properly within their ordinances. Ms. Seltzer said familiarity with the Codes, Comprehensive Plan, and Design Guidelines was crucial. Liking or not liking a project was not relevant. Residents should not continue to expend time, energy, and resources to ensure that proper review procedures are being followed. She said if the Town Council continued to disregard recommendations from legal counsel and staff to follow the rule of law, the whole town would likely be shouldering the cost of defending such actions in court. She asked that the Town Council be mindful of these things moving forward.

VI. APPROVAL OF AGENDA

Wayne Bergman, Director of Planning, Zoning and Building, offered the following modifications to the agenda:

Addition of Waiver of Town Code Section 18-237 For Building Permit Extension for 300 Seminole Avenue under C. 4. Time Extensions, Waivers, and Three-Strike Matters.

A reordering of the resolutions, hearing Resolution No. 149-2023 before Resolution No. 148-2023

A motion was made by Council Member Cooney and seconded by Council President Pro Tem Lindsay to approve the agenda as amended. The motion was carried unanimously, 5-0.

VII. CONSENT AGENDA

- A. **ZON-23-112 285 SUNRISE AVE—SPECIAL EXCEPTION AND VARIANCE** The applicant, Island Animal Hospital (Dr. Mary Ellen Scully), has filed an application requesting Town Council review and approval for a Special Exception for a permitted use greater than 3,000 SF in the C- TS zoning districts for a new veterinarian office and (1) Variance to allow a new veterinarian office on the ground floor in lieu of the use being located above the first floor.
- B. **ZON-23-122 400 ROYAL PALM WAY—SPECIAL EXCEPTIONS WITH SITE PLAN REVIEW AND VARIANCE** The applicant, Citizens BankNA, has filed an application requesting Town Council review and approval for a (1) Special Exception for a bank and (2) a Special Exception for a drive-thru facility and a Site Plan Review for a use greater than 2,000 SF in the C-OPI zoning district for third-floor bank in an existing four-story office building. Additionally, a Variance is being requested to not provide 6 additional parking spaces required as a change of use from office space to banking space.

Council Member Cooney was prepared to make a motion but acknowledged that sometimes fair criticism is leveled at the desk about the Town Council's approval of variances. He noted a variance in the consent agenda for 285 Sunrise Avenue. This variance was a perfect example of a flaw in the code where it prohibited a veterinarian's office on the first floor of a building and required it to be on the second floor while simultaneously allowing a dog grooming operation to be on the first floor, but not the second floor.

A motion was made by Council Member Cooney and seconded by Council Member Crampton to approve the consent agenda as amended, that the projects contained within the Consent Agenda meet the requirements of Chapter 134,

specifically Sections 134-326 through 134-330 for Site Plan Review, Section 134-229 for Special Exceptions, and Section 134-201 for Variances, and with the removal of ZON-24-012, 325 Via Linda from the approval. The motion was carried unanimously, 5-0.

- C. **ZON-24-012 325 VIA LINDA - VARIANCE** The applicant, Three Palm Trees LLC (Maura Ziska), has filed an application requesting Town Council review and approval for a Variance to exceed by the maximum width of a dock based on lotwidth.

Council Member Araskog asked about the width of the proposed dock.

Maura Ziska, the attorney for the owner, advised that the dock width would be forty-nine feet long and eight feet wide.

A motion was made by Council Member Crampton and seconded by Council President Pro Tem Lindsay that Variance No. ZON-24-012 shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201 (A), items 1 through 7, have been met. The motion was carried 4-1, with Council Member Araskog dissenting.

VIII. REGULAR BUSINESS

IX. RESOLUTIONS

- A. **RESOLUTION NO. 149-2023:** A Resolution Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Ratifying And Confirming The Determination Of The Landmarks Preservation Commission That The Property Known As 318 Australian Ave Meets The Criteria Set Forth In Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach; And Designating Said Property As A Town Of Palm Beach Landmark Pursuant To Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach.
The property owners are supportive of this designation. The Landmarks Preservation Commission voted 7-0 for Landmarking.

Council President Zeidman requested confirmation of proof of publication. Friederike Mittner, Design and Preservation Manager, provided confirmation.

Janet Murphy, MurphyStillings, presented background information on the project and historical information on the property. She outlined how the property met Criteria 1 and 3 for Landmark Designation. Ms. Stillings expressed appreciation to the owner for offering the home for landmark designation.

Ex-parte communications were disclosed by Council Member Cooney and Mayor Moore.

A motion was made by Council Member Cooney and was seconded by Council President Pro Tem Lindsay to make the designation report part of the record. The motion was carried unanimously, 5-0.

Council President Zeidman called for public comment.

Aimee Sunny, Preservation Foundation of Palm Beach, formally thanked the owner for their stewardship in bringing this property forward to be designated as a landmarked property. She encouraged the Town Council to support the renovation. She said variances would be requested and necessary for the property to be properly rehabilitated.

Council Member Cooney also thanked the owner for being willing to allow their property to be a landmarked structure. He said there have been some changes to state law, which will eliminate the town's ability to landmark properties absent the property owner's consent. He was delighted to have a property owner who recognized the importance of historic structures and the history of the built environment in the town.

A motion was made by Council Member Araskog and was seconded by Council Member Cooney to adopt Resolution 149-2023, designating the property at 318 Australian Avenue as a landmark of the Town of Palm Beach on the basis that it meets criteria Numbers 1 and 3 of Section 54-161 of the Town of Palm Beach Code and in the Landmarks Preservation Ordinance No. 2-84.

Council Member Cooney wondered if the town should require something in writing to formalize landmark designations since state law had changed. His concern was that future property owners may question whether the property was properly designated.

The motion was carried unanimously, 5-0.

Mackey Reed, Director of Public Affairs with the Palm Beach Preservation Foundation, was introduced and congratulated on her new role. Ms. Reed provided a short biography and said she looked forward to facilitating effective communication between all parties.

- B. RESOLUTION NO. 148-2023: A Resolution Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Ratifying And Confirming The Determination Of The Landmarks Preservation Commission That The Property Known As 262 Sunset Ave Meets The Criteria set forth in Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach; And Designating Said Property As A Town Of Palm Beach Landmark Pursuant To Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach. *The property owner is opposed to this designation. The Landmarks Preservation Commission voted 7-0 for Landmarking.**

Ex parte communications were disclosed by Council Members Araskog, Cooney, Council President Pro Tem Lindsay, Council President Zeidman, and Mayor Moore.

Council President Zeidman requested confirmation of proof of publication. Friederike Mittner, Design and Preservation Manager, provided confirmation.

Janet Murphy, MurphyStillings, presented background information on the project and historical information on the property. She outlined how the property met Criteria 1

and 3 for Landmark Designation.

A motion was made by Council Member Cooney and was seconded by Council Member Araskog to make the designation report part of the record. The motion was carried unanimously, 5-0.

Jamie Crowley, the attorney on behalf of 262 Sunset Avenue, LLC, stated that Stephen R. Karp, Founder and Chair of New England Development, was also present. Mr. Crowley said this property was affiliated with New England Development's ownership of the White Elephant. He said Eugene Pandula would also discuss changes that had occurred on the property over time and previous work done to analyze whether the property is eligible for designation. Mr. Crowley stated that hard work had been put into the White Elephant going through the local process to bring the building up to how it looked today. He added that millions of dollars were spent to update the White Elephant, and after the fact, they were not credited the federal credit. They received local ad valorem tax credits through the town program. Mr. Crowley said 262 Sunset was located adjacent to the White Elephant, and both buildings are legally nonconforming. He said this was a commercial zoning district where residential was not allowed. With respect to the street's character changing over time, residential was no longer an allowable use.

Mr. Crowley discussed the procedure for landmarking. He said the property was considered for landmarking only six months after purchase by the property owner. The property owner was not notified, and the agenda for the meeting where the property would be considered for landmark designation was unclear. He said that the agenda had no supporting documents attached. Mr. Crowley set forth the Landmark Criteria not met for the property to be designated. He spoke about House Bill 423 and stated that during the last designation season, all the properties considered were commercial. He said that based on research conducted by Mr. Pandula, the subject property did not meet the designation criteria. He noted that he had never challenged the Landmark Preservation Commission. However, they felt strongly that this particular property did not meet the criteria for designation.

Eugene Pandula, an architect representing the owner, stated he had attached more importance to the Florida Master Site File Forms and the last survey conducted by Environmental Services. He said the Florida Master Site File Forms had a history back to 1979 for the subject property. The first of which was done by a historic preservation consultant from Pittsburgh. The building was rated "D," the lowest possible grade then. The next three Florida Master Site File Forms were done in 1997, 2004, and 2010 by Dr. Day. Initially, Dr. Day said the building deserved additional research and could be a landmark in the town. That was before the zoning was changed, and the property was still residential. The changes when the property became commercial were necessary to support the change. He further explained the changes to the structure, making it ineligible to be landmarked. He said that architecturally, the building did not meet the landmark criteria.

Mr. Crowley said that the Landmarks Preservation Commission (LPC) was under time constraints due to scheduling, and therefore, the presentation at LPC was rushed, and many of the facts were eliminated. He felt this may have contributed to their unanimous vote. Mr. Crowley also noted that Mr. Pandula was a past Chairperson for the Landmarks Preservation Commission and has been a practicing architect in town

since the late 1970s.

Friederike Mittner, Design and Preservation Manager for the Town of Palm Beach said she thought the evidence that had been presented pointed toward the criteria in Section 54-161, which had been met. She stated that adapted use is one of the best practices in preservation and a rehabilitation tool used across the country. She thought the developer's request for additional space for parking and amenities could be achieved. She said the front structure was 2,958 square feet, a significant amount of square footage that could be adapted to use as amenities. She also thought additional parking could be accommodated at the rear of the site. She discussed the difficulty of getting through the State's Historic Preservation Office and getting a national register designation. She thought this spoke volumes about the status of the building.

Mr. Crowley said the building was a commercial structure with no parking. He said if they proposed a commercial use, there would be no parking available, and it would be another commercial building with no parking. He noted the consequences of landmarking buildings that had no space for parking.

Council President Zeidman called for public comment.

Aimee Sunny, Preservation Foundation of Palm Beach, offered professional analysis. She said it was the process in the Town of Palm Beach to prepare a list of potential properties, which was not published before the meeting. The process of putting a property under consideration sets in motion an in-depth study and temporarily requires changes to go before the Landmarks Preservation Commission. She said that when something could lead to a formal designation, there was proper notice, advertising, and due process that would be afforded to the property. Much of the argument against the designation relies on information from the 2020 ESI Historic Site Survey Report and the Florida Master Site File. She clarified what the ESI Historic Site Survey Report was intended to do. It is a preservation and planning tool, not an exhaustive survey. It was not in-depth, and they identified it as a comprehensive pedestrian survey. She agreed that it spoke volumes that this building was historic and to be contributed by the Historic State Preservation Office and the keeper of the national register. Regarding criteria one and three, she thought the building met both. She urged the Town Council to find that this building met the criteria for designation.

Amanda Skier, Preservation Foundation of Palm Beach, said the Town of Palm Beach had an incredible group of preservation experts working for it. Much of the owners' testimony and their argument relied on the work done by consultants who did their work in a very brief amount of time and on a budget. She said more weight should be given to Jane Day, who said it was potentially eligible, and to MurphyStillings, with the exhaustive research they did for the national register nomination in saying that this building was worthy of protection. She urged the Town Council to rely on the experts who work for the town.

Mr. Crowley mentioned that the comprehensive plan mentioned the historic site forms as the basis for what should be used to select a list of properties to be considered for designation. He said these resources were specifically cited in the historic preservation element of the comprehensive plan as the basis for what properties should be designated.

Town Attorney Randolph addressed the legal allegation regarding placing the property under consideration. He said the long-standing practice of the town had been to place a property under consideration without giving notice to the owner. Mr. Randolph said there was no violation of due process because a property right was not being taken away. It is just a temporary requirement for the owner to go before the Landmarks Preservation Commission before any designation. He said there were very explicit provisions under Section 54-164 relating to the notice procedures. He said several other provisions indicated the various requirements for notice during the designation process. Legally, Mr. Randolph advised that he did not believe there had been any violation of due process regarding the allegation that the property owner was not noticed when this property was placed under consideration.

Mr. Randolph mentioned another legal aspect regarding the hearing itself, related to the time they were given at the Landmark Preservation Commission hearing. He acknowledged that the meeting was rushed, and the property owners were not allowed adequate time to make their presentation.

Mr. Crowley said the argument was a change of position because before a property goes under consideration, there is a property right to demolish the building. He said a property may not be demolished once under consideration for landmark.

Council Member Araskog agreed that the property owner was not allotted adequate time to make their presentation to the Landmarks Preservation Commission. She wondered if that was a due process issue since their expert was not given time to speak. She said if that were an issue, she would suggest sending it back to Landmarks and allowing them to speak and have the commission vote again.

Mr. Randolph understood from the applicant that there was an argument regarding a due process violation as a result of not being able to be heard. Section 6, 54-164 said the Commission shall afford the owner of each affected property a reasonable opportunity to present testimony or documented evidence regarding the historic or architectural importance of such property. As argued, Mr. Randolph thought they were not given reasonable opportunities.

Mr. Crowley stated his hesitation in the Town Council sending this application back to the Landmarks Preservation Commission. He felt that the LPC members were comfortable in their unanimous vote based upon the assertions made without hearing a presentation from the applicant. His preference would be for the Town Council to address the substantive issue that the property does not meet the criteria, although he would rather have to go back to LPC than be designated.

Council Member Araskog asked Mr. Randolph to advise the Commission of the importance of listening and considering all the evidence if the application was sent back to LPC. She preferred to remand the application back to LPC.

Mr. Randolph said Mr. Crowley was not waiving his argument, and he felt it would be futile to go back to LPC. If the applicant wished to pursue legal action, Mr. Crowley would still have that argument.

Council Member Cooney stated he had not listened to or attended the LPC hearing, but he shared the belief that upon proper legal advice and counsel, the LPC members

would heed proper advice to hear this case with an open mind.

Council President Pro Tem Lindsay thought the application should be remanded to the LPC. She felt the members could listen with an open mind for reconsideration of their decision.

Council President Zeidman reiterated the two due process issues at hand. She thought this application should be remanded back to the LPC, given the time restraints under which they were working at the time of the original hearing.

A motion was made by Council Member Araskog and was seconded by Council Member Cooney to remand Resolution No. 148-2023 back to the Landmarks Preservation Commission due to a procedural issue. The motion was carried unanimously, 5-0.

Council Member Araskog thought it was necessary for Mr. Randolph to meet with the Chair and Vice-Chair of LPC before the next hearing. Mr. Randolph said the board was advised at the original hearing that they should not limit the applicant to three minutes for their presentation.

Mayor Moore stated she was disappointed that the LPC did not afford the applicant proper respect in allowing them to make their presentation in its entirety. She hoped this situation would not be occurring in the future.

A motion was made by Council Member Araskog and was seconded by Council Member Cooney to amend the motion to remand Resolution No. 148-2023, 262 Sunset Avenue, to a date certain of January 17, 2024, back the Landmarks Preservation Commission due to a procedural issue. The motion was carried unanimously, 5-0.

Clerk's note: A short break was taken at 11:24 a.m. The meeting resumed at 11:41 a.m.

X. DEVELOPMENT REVIEWS

A. Appeals

1. Administrative Appeal 1236 S Ocean Blvd./200 Emerald Beach Way: Appeal of the decision of an administrative officer regarding a code enforcement case of a fence. The appellant cites zoning code Sections 134-141, 134-1666, and 134-1548 for this appeal.

Mr. Randolph advised the Town Council that this was not a de novo hearing; no testimony would be heard today. Only the applicant would present an argument.

Amanda Quirke Hand, attorney for the owner at 100 Emerald Beach Way, presented the appeal of an administrative decision. The appeal was regarding a fence that was not on an approved site plan and did not have a building permit. The complaint was made originally in June 2023, and the Code Enforcement complaint was subsequently dismissed. The facts were undisputed. She said a fence was placed very close to the 100 Emerald Beach Way property. The complaint was that the fence was not on the governing site plan and was not permitted. The response by M. Timothy Hanlon, the

attorney representing Mr. and Mrs. Thornton, owners at 1236 S. Ocean Blvd., was that it was a temporary fence purchased from Amazon that did not require a permit. Ms. Hand presented a photograph that demonstrated grass growing up around the fence, which was used as a dog pen. She pointed out that the owners had constructed the fence for their dogs outdoors, immediately adjacent to the residence's front door at 100 Emerald Beach Way and as far as possible away from their own residence located at 1236 South Ocean Boulevard. Ms. Hand explained why the fence was illegal, citing zoning regulations regarding fences.

Ms. Hand stated that the owners of 100 Emerald Beach Way respectfully requested that the town grant the appeal.

Ms. Hand said that after she filed an appeal, Mr. Bergman had determined that no permit was required for a temporary fence. She stated she would submit that e-mail for the record.

Mr. Hanlon stated that the appeal presented no evidence indicating that the Code Enforcement Officer made an incorrect decision to dismiss the complaint or that the dog playpen constituted a fence under the zoning code. He stated the fence was a playpen and was temporary. The fence was originally located in the garage. He stated there was only one dog, mid-sized and ten years old. The playpen was not a fence; it was a temporary enclosure for dogs, and it could be quickly and easily moved from one location to another. He said the blue tarp referred to during the presentation was installed to block two video cameras and a voice recording mechanism installed by neighbors adjacent to the Thorntons property. The blue tarp was placed to preserve their privacy and prevent intrusion. Moreover, Mr. Hanlon said that once the property owner was alerted to the appeal, they voluntarily invited Town staff and Code Enforcement personnel to the residence to see the playpen, a very tiny enclosure.

Mr. Bergman stated that based on what he had seen in the photographs and materials, he would not consider the structure a fence, and requiring a building permit did not make sense.

Council Member Araskog asked how a fence was defined in the Town Code. Attorney O'Connor responded that it was not defined. Council Member Araskog asked Mr. Hanlon why a temporary fence had been in place for several years. Mr. Hanlon said it was because the Thorntons were using their yard. Council Member Araskog asked why the Thorntons had placed the fence far from their home. Mr. Hanlon said they had purchased the additional lot for an open space area for their dog.

Mayor Moore told the property owners they needed to work on a solution. She thought the situation was ridiculous.

Council Member Cooney agreed with Mayor Moore.

Council President Zeidman pointed out the hours spent by staff and the Town Council on issues such as this. She agreed with her fellow Town Council about the pettiness of this situation.

Council Member Araskog asked how long the fence had been in place. She said it looked like a fence and expressed her frustration. She asked why the Thorntons could not move the fence closer to their house to have a good relationship with their neighbors. Council Member Araskog voiced

frustration with the lack of sensibility and communication between the neighbors.

Mr. Hanlon said his client did not create this situation. He said the Thorntons bought the property for open space and were using it as such. He said the neighbors were only in town a short time each year and believed the appeal was filed out of spite.

A motion was made by Council Member Crampton and was seconded by Council Member Cooney to deny the appeal based upon the fact that no credible evidence had been presented. The motion was carried 4-1, with Council Member Araskog dissenting.

Council President Pro Tem Lindsay did not understand how the information provided was inconsistent. She thought there were communication issues that should have been worked out between neighbors.

Council Member Cooney asked Mr. Hanlon and Ms. Hand to give their clients the message that they should embrace kindness and use their boundless resources for good in the world. He said that Mayor Moore could help them find resources.

Council Member Araskog asked the attorneys to strongly recommend that the Thorntons relocate the fence.

Council President Pro Tem Lindsay suggested that the attorneys urge their clients to remove the surveillance equipment.

1. Old Business

- a. **ZON-23-068 (ARC-23-090) 206 CARIBBEAN RD (COMBO) - SITE PLAN REVIEW** The applicant, Walter Wick, has filed an application requesting Town Council review and approval for Site Plan Review to allow development of a new single-family residence on a platted nonconforming parcel deficient in lot width and lot area required in the R-B Zoning District. The Architectural Commission shall perform the design review component of the application.

Please note: This item was deferred to January 10, 2024, meeting at the Approval of the Agenda, Item VI.

- b. **ZON-23-084 (ARC-23-109) 600 TARPON WAY (COMBO) - SPECIAL EXCEPTION AND VARIANCES** The applicants, Frank and Annie Falk, have filed an application requesting Town Council review and approval for 7 variances, including (1-2) for building height plane reductions, (3- 6) to locate mechanical equipment within the front yard, (7) to exceed maximum site wall height within the front yard, and a Special Exception for reduced vehicular gate setbacks on a dead-end street, for the construction of a new two-story single-family residence over 10,000 SF and sitewide landscape and hardscape improvements. The Architectural Commission shall perform the design review component of the application.

Please note: This item was deferred to January 10, 2024, meeting at the Approval of the Agenda, Item VI.

2. New Business

- a. **ZON-23-077 (ARC-23-107) 162 E INLET DR (COMBO) - VARIANCE** The applicants, David and Jill Shulman, have filed an application requesting Town Council review and approval for a variance to (1) exceed the maximum allowable Cubic Content Ratio (CCR) for the construction of enclosed additions and a rear awning to the single-family residence. The Architectural Commission shall perform the design review component of the application. *The Architectural Commission approved the design (5-2), and supported variances (7-0).*

Ex parte communications were declared by Council Members Araskog and Cooney and Council President Zeidman.

M. Timothy Hanlon, an attorney for the owner, provided an overview of the project and explained the variance requested. He noted that the renovation would eliminate three existing nonconformities.

Patrick Segraves, SKA Architect + Planner, presented the architectural plans proposed for the additions and modifications to the existing residence.

Council President Zeidman explained that the language used may lead some to erroneously conclude that ARCOM and LPC approve variances. In fact, the language is clear in that it states that the “variances will not negatively affect the architecture.”

Council Member Cooney said the variance was a reasonable request, but it was a violation of the code, and he could not see what the hardship was to justify further enlarging a structure that was already more than what was allowed.

Council President Pro Tem Lindsay agreed with Council Member Cooney. She said the subject area of town already had many homes too large for their properties. She felt there was no hardship, and making the home larger was unnecessary when it was already one of many homes too large for its lot.

Council President Zeidman asked for further clarification of the nonconformities that would be eliminated with approval of the variance. Mr. Hanlon explained that the swimming pool would be smaller, and landscaping would be increased at the rear of the property.

A motion was made by Council Member Araskog and was seconded by Council Member Cooney that Variance No. ZON-23-077, 162 E. Inlet Drive, be denied for reasons that the application does not meet the criteria set forth in 134-201(a), items 1, 2, 3, 5, 6, 7.

Mayor Moore asked to see the proposed interior of the structure. Mr. Hanlon

showed visual aids and explained the proposed modifications compared to the existing structure.

Council President Pro Tem Lindsay asked if there was an opportunity to make the variance smaller. Mr. Hanlon said no.

Council President Zeidman asked about the home's square footage as it currently existed. Mr. Hanlon said the home was 4,974 square feet, and the lot was 10,484 square feet. He said the addition would be approximately 159 square feet.

Council Member Crampton thought the proposed project's impact was minimal, but he could not find a hardship to justify granting a variance.

The motion was carried unanimously, 5-0.

Clerk's note: Mayor Moore left the meeting at 12:37 p.m. and returned after the lunch break.

- b. **ZON-23-088 (ARC-23-120) 1600 S OCEAN BLVD (COMBO) - SITE PLAN REVIEW AND VARIANCES** The applicant, PB Pavilion Trust (Michael Vineberg, Robert G. Simses and Peter Flanagan, Trustees), has filed an application requesting Town Council review and approval for site plan review for an addition to house a generator over 150kW, and (3) variances for (1) additional parapet height in the required north side yard setback and (2 – 3) to reduce the required north and south side yard setback in order to construct one-story additions to a previously approved two-story residence. The Architectural Commission shall perform design review of the application. *The Architectural Commission approved the design (7-0) and supported the variances (7-0).*

Ex parte communications declared by Council Member Araskog and Council President Zeidman.

Maura Ziska, an attorney for the owner, provided an overview of the project and explained the variances requested.

Harold Smith, Smith and Moore Architects, presented the architectural plans proposed for the additions and modifications to the existing residence.

Council Member Araskog inquired about eliminating the parapet, but Mr. Smith thought that would be a mistake.

Council President Zeidman said the project was beautiful, but she thought it could be symmetrical, eliminating the need for variance.

Mr. Smith showed the original proposal and explained the solution reached. The goal was to find a solution that would not interrupt the architecture of

the structure.

A motion was made by Council Member Araskog that Variance No. ZON-23-088, 1600 S. Ocean Blvd., be denied for reasons that the application does not meet the criteria set forth in 134-201(a), items 1 through 7. The motion died for lack of a second.

A motion was made by Council Member Crampton and was seconded by Council President Zeidman that Variance No. ZON-23-088, 1600 S. Ocean Blvd., shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201 (a), items 1 through 7, have been met. The motion was carried 4-1, with Council Member Araskog dissenting.

A motion was made by Council Member Crampton and was seconded by Council President Pro Tem Lindsay that Site Plan No. ZON-23-088, 1600 S. Ocean Blvd., as said application meets the criteria set forth in sections 134-229 and 134-329, respectively, of the Town Code and finds that approval of the Site Plan will not adversely affect the public interest, that all zoning requirements governing the use have been met and that satisfactory provision and arrangement has been made concerning items (1) through (11) of section 134-329. The motion was carried unanimously, 5-0.

- c. **ZON-23-104 (ARC-23-137) 310 CLARKE AVE (COMBO)—VARIANCES** The applicant, Mark & Patricia Davies, has filed an application requesting Town Council review and approval for seven (7) Variances (1-2) to exceed maximum equipment screening wall heights in the east and west side-yards, (3) to exceed the maximum number of equipment in the west side-yard, (4-5) to locate A/C equipment closer than permitted to the east and west side property lines, (6) to locate a pool heater closer to the east side property line than permitted, (7) and to forgo the requirement to enclose pool equipment in a pump house enclosure. The Architectural Commission shall perform design review of the application.

Please note: This item was deferred to January 10, 2024, meeting at the Approval of the Agenda, Item VI.

- d. **ZON-23-105 (ARC-23-123) 1186 N OCEAN WAY (COMBO)—VARIANCES** The applicant, Martha Lee Johnson 2012 Exempt Trust (Stan Johnson), has filed an application requesting Town Council review and approval for (3) Variances: (1) for reduced rear setbacks for the installation of a pool heater, (2) for increased separation distance between the pool and the pool equipment, and (3) to exceed allowable chimney height, in conjunction with the construction of a new two-story single-family residence. The Architectural Commission will perform the design review component of the application.

Please note: This item was deferred to January 10, 2024, meeting at the Approval of the Agenda, Item VI.

- e. **ZON-23-106 (COA-23-038) 318 AUSTRALIAN AVE (COMBO) —VARIANCES** The applicant, Combinat, LLC (Rep. Timothy Hanlon), has filed an application requesting Town Council review and approval for (1) Variance to exceed the maximum allowable lot coverage for the construction of a rear enclosed addition and pergola to an existing one-story landmarked structure. The Landmarks Preservation Commission shall conduct the design review portion of the application and shall decide on the floodplain variance and Historic Preservation Tax Abatement. *The Landmarks Preservation Commission approved the design (7-0), supported variance (7-0) and supported floodplain variance (7-0).*

Ex parte communications declared by Council Member Cooney.

M. Timothy Hanlon, the owner's attorney, provided an overview of the project and explained the variance requested.

Yiannis Varnava, Varnava Design Studio, presented the architectural plans proposed for the modifications to the landmarked residence.

Council President Pro Tem Lindsay liked the pergola but asked if the terrace was permeable. She asked Ms. Ailes to consider making that space permeable to help with potential flooding. Mr. Varnava said the landscaping was conforming, and the drainage system would be entirely updated.

Council Member Cooney supported this project and was thankful to the owner for voluntarily designating the home. He noted the owner could have elected not to designate the home, and they could have complied with Town requirements with a much larger home. Instead, they were making a modest addition to a one-story home.

Council Member Araskog asked Mr. Hanlon to explain the hardship. He said the property was nonconforming, and the landmarked status created little to no flexibility to make the property conforming.

A motion was made by Council Member Cooney and was seconded by Council Member Araskog that Variance No. ZON-23-106, 318 Australian Avenue, shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201 (a), items 1 through 7, have been met. The motion was carried unanimously, 5-0.

- f. **ZON-23-109 (COA-23-040) 134 EL VEDADO RD (COMBO) —VARIANCE.** The applicants, Elizabeth and Jeffrey Leeds, have filed an application requesting Town Council review and approval

for (1) Variance to provide vehicle queuing space deficient in depth between the driveway gate and edge of roadway. The Landmarks Preservation Commission shall perform a design review of the application. The applicants, Elizabeth and Jeffrey Leeds, have filed an application requesting Town Council review and approval for (1) Variance to provide vehicle queuing space deficient in depth between the driveway gate and edge of roadway. The Landmarks Preservation Commission shall perform a design review of the application.

Please note: This item was deferred to January 10, 2024, meeting at the Approval of the Agenda, Item VI.

- g. **ZON-23-111 (HSB-23-009) 269 PARK AVE (COMBO)—VARIANCES** The applicant, Schnapps 269 Park Avenue LLC (Andrew and Lorraine Dodge), has filed an application requesting Town Council review and approval for four (4) Variances to (1) expand an existing nonconforming 3rd story of an existing three-story historically significant building by adding four side rooftop dormer windows, (2) to exceed the maximum overall building height for the construction of four dormer windows, (3) to reduce the required side setback for the dormer windows and habitable terrace deck, and (4) to reduce the required front setback for a new entrance feature and habitable terrace deck. The Landmarks Preservation Commission shall conduct the design review portion of the application and shall decide on the floodplain variance.

Please note: This item was deferred to January 10, 2024, meeting at the Approval of the Agenda, Item VI.

- h. **ZON-23-113 (ARC-23-145) 123 CHILEAN AVE (COMBO)—SPECIAL EXCEPTION AND VARIANCES** The applicant, Robert & Perri Bishop, has filed an application requesting Town Council review and approval for Special Exception to develop a parcel comprised of portions of platted lots which is deficient in minimum required lot width and lot area in the R-B district, and (3) Variances including (1 and 2) to reduce the required east and west side-yard setbacks and (3) to exceed the maximum permitted cubic content ratio (CCR) permitted, in conjunction with a new two-story single-family residence and one-story accessory cabana structure. The Architectural Commission shall perform design review of the application.

Please note: This item was deferred to January 10, 2024, meeting at the Approval of the Agenda, Item VI.

- i. **ZON-23-118 (ARC-23-140) 2278 IBIS ISLE RD (COMBO)—VARIANCE** The applicant, Angel Arroyo, has filed an application requesting Town Council review and approval for a Variance (1) to eliminate the required garage enclosure for two vehicles in the R-B district. The Architectural Commission shall perform design review of the application.

Please note: This item was deferred to January 10, 2024, meeting at the Approval of the Agenda, Item VI.

- j. **ZON-23-119 (ARC-23-146) 995 S OCEAN BLVD (COMBO)—VARIANCES** The applicant, Mary S. Conrad, has filed an application requesting Town Council review and approval for four (4) Variances to construct a second story addition on an existing single-family residence within the required (1-2) front yard setback, (3) within the required side yard setback, and (4) within the building height plane. The Architectural Commission shall perform design review of the application.

Please note: This item was deferred to January 10, 2024, meeting at the Approval of the Agenda, Item VI.

- k. **ZON-24-003 (COA-23-047) 340 ROYAL POINCIANA WAY (COMBO)—SPECIAL EXCEPTION AND VARIANCE** The applicant, TUTTO MARE LLC and SIDNEY SPIEGEL, TRUSTEE OF TRUST #31520371 DATED OCTOBER 25, 1984, has filed an application requesting Town Council review and approval for (1) a Special Exception for a new restaurant within the Royal Poinciana Theatre building at the west side of The Royal Poinciana Plaza, (2) a Special Exception for outdoor café seating in association with the restaurant, and (1) a Variance to exceed the maximum height of rooftop kitchen equipment. The Landmarks Preservation Commission shall perform design review of the application.

Ex parte communications disclosed by Council Members Araskog, Cooney, Crampton, Council President Zeidman, Council President Pro Tem Lindsay, and Mayor Moore.

Jamie Crowley, the attorney for the applicant, provided an overview of the project. He stated that a special exception was requested for 64 outdoor seats and a variance for rooftop equipment. He said the rooftop equipment variances were necessary for proper ventilation. He noted that the Town Council had already looked at the number of seats and the valet parking system. He said his client was proposing an addition from a prior agreement. A new Declaration of Use Agreement for the restaurant's operation has been provided to town staff. Mr. Crowley said he had submitted an amended 1979 agreement update because two parking spaces had been used for the Marissa Collections expansion. Since only 200 seats were requested, the applicant asked to add 7 seats back, which would result in 50 seats. He discussed the sound study, which was produced by a sound engineer. The study measured sound at the southwest corner of the property, which indicated that outdoor seating would be well below the thresholds of the Town's noise ordinance.

Council President Zeidman asked who checked off on the Declaration of Use. Mr. Crowley responded that the document was prepared by the town's attorney and staff.

Council Member Araskog asked which variances were being dealt with today, and Mr. Bergman said one variance for the rooftop equipment was being requested at this time.

Dominic Kozerski, Bonetti Kozerski Architecture, presented the conceptual renderings and walked the Town Council through the vision for the proposed restaurant.

Nelo Freijomel, Spina O'Rourke, presented the architectural plans for the proposed restaurant. He spoke about the exterior changes proposed to the originally approved project.

Council Member Araskog asked if all sides would be screened. Mr. Freijomel said there would be a screen on all sides. Council Member Araskog asked about the French Doors, which were being replaced with sliding doors. Mr. Freijomel said that change would be presented to the Landmarks Preservation Commission. He said the site plan was previously approved, and the doors were the only exterior change being proposed.

Council Member Crampton asked if the windows could be opened to keep the interior rooms cooler. Mr. Freijomel said the glass in the western section of the dining room was screened, and the north did not have any direct incoming light. Council Member Crampton asked if any feedback had been received from the residents in The Towers. Mr. Crowley said a letter had been received from the closest affected residents in The Towers, but no letter had been received from the board. Additionally, there had been dialogue with The Towers, and they had received no objections.

Mr. Freijomel said a two-part canopy would be retractable and open completely to let light and air into the space. That area was not counted in the sound study. The retractable awning was part of the original approval and was a two-layer system.

Samantha David noted that there had been communications with the neighbors, and they had been supportive.

Council President Pro Tem Lindsay asked about closing times and whether the outside seating area would be operational at the same times as the indoor seating. Mr. Crowley said yes, but the closure would be at 10:00 p.m. Council President Pro Tem Lindsay also confirmed that the outdoor seating area would be food service and not just a bar environment. She also wanted assurance that all vegetation would be living, not artificial. In addition, she asked that a letter of support be obtained from the homeowner's association of the adjacent condominium. She was concerned about how much the sound would carry.

Ms. David said there were no public concerns, and she thought the residents would have spoken up if they had concerns. She also noted that the sound would travel west over the water rather than toward The Towers.

Council President Zeidman recommended that as far as the special exception for a new restaurant, sound had to be a consideration. There was also a special exception for outdoor seating with a Declaration of Use. She said that in order to grant a special exception for the restaurant, the Town Council would have to make sure everyone was protected from the sound.

Council Member Cooney did not think the Zoning in Progress pertaining to restaurant uses had ever been rescinded.

Council Member Crampton stated his support for the project.

Council Member Araskog asked for details about the sound study. She also asked if everyone in The Towers was notified, and Mr. Crowley said everyone was notified as required. Council Member Araskog brought up regional destination restaurants, stating this would be the only restaurant on the water. She asked how “town serving” would be handled and wanted proof that the restaurant would be “town serving.” She also had some issues with the hours of operation and wanted something in the Declaration of Use that ensured dining only in the patio seating area. She also thought it might be a good idea to start the outdoor seating slowly by having fewer seats outside in the beginning, with incremental increases conditioned upon whether there were complaints. She wanted to make sure the Town Council would have a right to decrease the number of outdoor seats. Mr. Crowley explained how the process would work. He said if there was a verified noise complaint, the restaurant was fined, and then Mr. Bergman would determine the date by which the restaurant had to comply. If that did not happen, the applicant would appear before the Town Council to discuss the Declaration of Use within thirty days.

Council President Pro Tem Lindsay asked questions and sought clarification about the number of patrons accommodated in the space.

Mayor Moore said the size of the room was determined by the size of the mural. She asked to see the rendering of the terrace. Based on the configuration of the seating, she did not share the same concerns as others. She did like the retractable awning because it would provide sound mitigation. Mayor Moore asked how soon the restaurant was anticipated to open. Mr. Crowley thought by January 1, 2025. Mayor Moore thought this type of waterfront dining was needed in Palm Beach, and she knew Mr. Crowley would help with the town-serving aspects of the restaurant. Mayor Moore said she would also like to see a letter of support from the President of The Towers, but she recalled residents from The Sun and Surf arguing against the project as a point of history. She said there were always nuances to everything, and she thought the surrounding property owners had proven themselves to be people who would stand up for themselves.

Council Member Crampton was pleased with the applicant’s effort to carry out the feeling of a celebrity room. He thought this proposal was elevated because it was in keeping with town traditions and myths that would add to the attraction of the venue.

Council Member Araskog mentioned some opportunities for modifications to the Declaration of Use. She did not think it should run with the land. She also thought that if the owner were to change, the Declaration of Use would need to be re-negotiated.

Council Member Cooney asked for clarification in the staff memo regarding the 1979 agreement.

Ms. David said she had the privilege of working with Gianpaolo and Gabby DeFelice, as well as other well-known, extraordinary restaurant owners. She said the objective was to start the restaurant

with their best foot forward. She asked that Mr. and Mrs. DeFelice be given the benefit of the doubt that they have earned as indicated by their reputation.

Gianpaolo and Gabby DeFelice, the owners of Tutto Mare, indicated they had been in Palm Beach for 8 years and had previously owned a small restaurant in The Hamptons. Ms. DeFelice said it was not always about creating a restaurant but about being part of the community and giving back. She was excited about being part of the Palm Beach community. Mr. DeFelice presented some history of his and Ms. DeFelice's history as restaurant owners. He said they are honored and excited to join the Palm Beach community. Ms. DeFelice said their cuisine would be seafood, which would include freshly caught fish, featuring Southern Mediterranean Cuisine.

Council President Zeidman called for public comment.

Anne Pepper, 333 Seaspray Avenue, asked how the town-serving aspect of the business would be enforced. She asked the Town Council to consider strengthening the Code Enforcement violation restrictions to make it more important for businesses to follow the law and their Declarations of Use. She also spoke about the potential for noise and acoustics that should be considered. She also asked about limiting events.

Council Member Araskog thought it was a good idea to investigate limiting special events. Council Member Cooney said he had mentioned this during the original approval and was unsuccessful.

Council President Zeidman advised that the Town Council members review the Declaration of Use thoroughly to discuss it in January and amend it as necessary. She asked about the doors on the south side of the structure. Mr. Freijomel said they were French doors that entered a vestibule space between the exterior and the celebrity room. Council President Zeidman also confirmed that there would only be ambient music and that there would be no dance floor or no live music.

A motion was made by Council Member Crampton and was seconded by Council Member Cooney that Variance No. ZON-24-003 be granted and find in support thereof that all of the criteria applicable to this application as set forth in Section 134-201 (A), items 1 through 7 have been met and providing that the property owner did voluntarily commit that prior to the issuance of a building permit to either provide a recorded utility easement or an easement agreement satisfactory to the Town that ensures a recorded easement will be granted, if necessary, to underground utilities in the area and that the area must be screened.

Council Member Cooney noted that the type of equipment necessary for the roof was not allowed under the Town Code.

Council Member Araskog asked for a statement of the hardship. Mr. Crowley responded that the equipment that was designed and available to perform the function of the kitchen scrubber was not within the code parameters as written.

The motion was carried unanimously, 5-0.

A motion was made by Council Member Crampton and was seconded by Council President Pro Tem Lindsay to approve Special Exception No. ZON-24-003, indoor restaurant seating, as said application, meets the criteria set forth in sections 134-229 and 134-329, respectively, of the Town Code and finding that approval of the Site Plan will not adversely affect the public interest, that all zoning requirements governing the use have been met and that satisfactory provision and arrangement has been made concerning items (1) through (11) of section 134-329, and approval is conditioned on approval of satisfactory details in the Declaration of use Agreement will return to the Town Council on January 10, 2024. The motion was carried unanimously, 5-0.

A motion was made by Council Member Crampton and was seconded by Council President Pro Tem Lindsay to approve Special Exception No. ZON-24-003, outdoor restaurant seating, as said application, meets the criteria set forth in sections 134-229 and 134-329, respectively, of the Town Code and finding that approval of the Site Plan will not adversely affect the public interest, that all zoning requirements governing the use have been met and that satisfactory provision and arrangement has been made concerning items (1) through (11) of section 134-329, and approval is conditioned on approval of satisfactory details in the Declaration of use Agreement will return to the Town Council on January 10, 2024. The motion carried 4-1, with Council Member Araskog dissenting.

It was the consensus of the Town Council to defer the Declaration of Use, as well as the 1979 Agreement changes, to the Town Council meeting on January 10, 2024.

XI. ORDINANCES

A. Second Reading

1. **ORDINANCE NO 017-2023:** An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 18, Buildings And Building Regulations, At Article IV, Florida Building Code, Section 18-232, Definitions, Section 18-235, Building Division; At Section 18-237, Agreed Maximum Time Schedule For Completion Of Major Construction, And By Adding Section 18-240, Town Council Building Permit Extension Fee; Providing For Severability; Providing For The Repeal Of Ordinances In Conflict; Providing For Codification; And Providing An Effective Date.

Director Bergman read Ordinance No. 017-2023 by title only.

A motion was made by Council Member Crampton and was seconded by Council Member Araskog to adopt Ordinance No. 017-2023 on the second reading. The motion was carried unanimously, 4-0.

Clerk's note: Council Member Cooney was not in the room during the vote.

B. First Reading

1. An Ordinance Amending Chapter 134, Zoning, to Allow Arcades and Colonnades Within Public Rights-Of-Way in the C-TS Zoning District

ORDINANCE NO. 008-2023: An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending Chapter 134, Zoning, Article VI, District Regulations, Division 8, C-TS Town-Serving Commercial District, Section 134-1114, Same-Exceptions, To Allow Arcades And Colonnades Within Public Rights- Of-Way; Providing For Severability; Providing For The Repeal Of Ordinances In Conflict; Providing For Codification; And Providing An Effective Date.

Please note: This item was deferred to January 10, 2024, meeting at the Approval of the Agenda, Item VI.

2. An Ordinance Amending Chapter 134, Zoning, to Allow Valet Only Parking Structures Ancillary to Existing Hotels in the R-C Zoning District

ORDINANCE NO. 024-2023: An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending Chapter 134, Article I., Section 134-2 Definitions And Rules Of Construction, To Create A Definition For Valet Only Garage; To Article VI, District Regulations, Division 5. R-C Medium Density Residential District, Section 134-945, Special Exception Uses; Section 134-948 Lot, Yard and Area Requirements, Section 134-955, And Off-Street Parking And Loading; To Allow Valet Only Parking Structures Existing Hotel; Providing For Severability; Providing For The Repeal Of Ordinances In Conflict; Providing For Codification; And Providing An Effective Date.

Please note: This item was withdrawn at the Approval of the Agenda, Item VI.

C. Time Extensions, Waivers, and Three-Strike Matters

1. Waiver of Town Code Section 18-237, For Building Permit Extension for 334 Chilean Avenue

Wayne Bergman, Director of the Planning, Zoning and Building Department, described the building permit extension request.

Paul Courchene, President of Courchene Development Corp, explained the ongoing project and the reason for the extension request to complete the work. He said the original permit was pulled by a different builder in 2022. In the interim, the homeowner hired Courchene Development Corp to build their home. Upon entering a contract, the homeowner changed the home and the foundation. He said the house had been under construction, and the job had moved quickly, although additional time was necessary to finish the home. New permits were obtained in April 2023.

A motion was made by Council Member Cooney and was seconded by

Council Member Araskog to approve the request as presented. The motion was carried unanimously, 5-0.

2. Waiver of Town Code Section 18-237, For Building Permit Extension for 200 Bahama Lane

Wayne Bergman, Director of the Planning, Zoning and Building Department, described the building permit extension request.

Matt Courson, The Cury Group Inc., explained the ongoing project and the reason for the extension request to complete the work. Mr. Courson explained the details, causing a delay in the project. There was a pause in construction while some changes were made, and this contributed to the delay in completing the project sooner.

A motion was made by Council Member Cooney and was seconded by Council Member Araskog to approve the request as presented. The motion was carried unanimously, 5-0.

3. Waiver of Town Code Section 18-237, For Building Permit Extension for 2000 S Ocean Blvd.

Wayne Bergman, Director of the Planning, Zoning and Building Department, described the building permit extension.

Scott Houbert, CA Lindman of South Florida, LLC, explained details regarding the ongoing project and the reason for the extension request to complete the work.

A motion was made by Council Member Araskog and was seconded by Council Member Crampton to approve the request as presented. The motion was carried unanimously, 5-0.

4. Waiver of Town Code Section 18-237, For Building Permit Extension for 300 Seminole Avenue.

Wayne Bergman, Director of the Planning, Zoning and Building Department, described the building permit extension request until November 15, 2024.

Chet Davis, Davis General Contraction Corporation, explained details regarding the ongoing project and the reason for the extension request to complete the work.

A motion was made by Council Member Araskog and was seconded by Council Member Crampton to approve the request as presented. The motion was carried unanimously, 5-0.

XII. ANY OTHER MATTERS

Council Member Araskog requested legal advice on the text amendments coming forward during the Code Reform project.

Council Member Araskog requested a discussion on what could be done to better the process regarding issues where Code, Planning and Zoning, and Public Works were not communicating effectively.

Mr. Bergman stated he heard the conversation earlier in the meeting. Better communication would be great, but everyone had rules that must be followed within their departments. He offered to have internal conversations to develop solutions that may be presented to the Town Council.

Council President Pro Tem Lindsay, having gone through demolition and rebuild, stated that coordination between departments seemed vulnerable. She supported having Mr. Bergman meet with the other directors and Mr. Blouin to reach a solution for presentation to the Town Council.

Council President Zeidman said Mr. Blouin must be involved because all the departments reported to the Town Manager. She commended the staff for working hard on all issues; she said she had never seen a harder working group. She did not want the staff to feel bad; she knew they would work with the Town Manager to find a resolution. Coordination between different departments could only come from the top down.

Everyone wished each other, staff, visitors, and residents a Merry Christmas, Happy Hanukkah, and Happy New Year.

XIII. ADJOURNMENT

A motion was made by Council Member Araskog and seconded by Council Member Cooney to adjourn the meeting at 4:11 p.m. The motion was carried unanimously, 5-0.

APPROVED:

Margaret A. Zeidman, Town Council President

ATTEST:

Kelly Churney, Acting Town Clerk
Date: _____

TOWN OF PALM BEACH

Town Council Meeting on: January 9, 2024

Section of Agenda

Minutes

Agenda Title

Approval of Major Matters Considered by the Architectural Review Commission at its Meeting of December 15, 2023

Presenter

Wayne Bergman, Director of Planning, Zoning and Building

ATTACHMENTS:

- ▣ **Memorandum Dated January 3, 2024 from Wayne Bergman, Director of Planning, Zoning and Building**
- ▣ **Minutes of the Architectural Review Commission Meeting of December 15, 2023**

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 9, 2024

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

From: Wayne Bergman, Director of Planning, Zoning & Building

Re: Approval of the Architectural Commission Meeting Minutes of December 15, 2023

Date: January 3, 2024

STAFF RECOMMENDATION

Staff recommends that the Town Council approve the major items that were approved by ARCOM at the regularly scheduled meeting of December 15, 2023.

BOARD OR COMMISSION RECOMMENDATION

The Architectural Commission recommends that the Town Council approve major items considered at the regularly scheduled meeting of December 15, 2023.

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

kmc



TOWN OF PALM BEACH

PLANNING, ZONING AND BUILDING DEPARTMENT

MINUTES OF THE REGULAR ARCHITECTURAL REVIEW COMMISSION MEETING HELD ON FRIDAY, DECEMBER 15, 2023

Please be advised that in keeping with a 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 once it has concluded may access the audio of that item via the Town's website at www.townofpalmbeach.com.

I. **CALL TO ORDER**

Mr. Smith called the meeting to order at 9:01 a.m.

II. **ROLL CALL**

Jeffrey W. Smith, Chairman	PRESENT
Richard F. Sammons, Vice Chairman	PRESENT
John David Corey, Member	PRESENT
Betsy Shiverick, Member	PRESENT
Thomas Kirchhoff, Member	ABSENT (Excused)
Kenn Karakul, Member	ABSENT (Excused)
Elizabeth Connaughton, Member	PRESENT
Dan Floersheimer, Alternate Member	PRESENT
Joshua L. Martin, Alternate Member	ABSENT (Excused)
Katherine "KT" Catlin, Alternate Member	PRESENT

Clerk's note: It was noted that Mr. Floersheimer and Ms. Catlin would be voting in the absence of Messrs. Kirchhoff and Karakul.

Staff Members present were:

Friederike Mittner, Design and Preservation Manager
Sarah Pardue, Design & Preservation Planner
Bradley Falco, Planner II
Kelly Churney, Acting Town Clerk

III. **PLEDGE OF ALLEGIANCE**

Chairman Smith led the Pledge of Allegiance.

IV. **APPROVAL OF MINUTES**

A motion was made by Mr. Floersheimer and seconded by Ms. Catlin to approve the minutes of the November 20, 2023, meeting as presented. The motion was carried unanimously, 7-0.

Town Attorney Skip Randolph told members of the Architectural Commission (ARCOM) that he would be retiring from his position after serving the town for more than forty years. He said

this would be his last opportunity to serve ARCOM, and it had been a pleasure. Mr. Randolph advised the Commission that Ms. Joanne O'Connor would be the new town attorney and that she was already familiar with ARCOM. He also said that Lainey Francisco, another attorney from Jones Foster, would be serving ARCOM in his absence.

Mr. Randolph reminded the ARCOM members that they were a quasi-judicial body and that they should apply the facts presented to the law. He advised that the commissioners were tasked with listening to facts presented to them and that the law would be the criteria set forth in the Town of Palm Beach Code of Ordinances. He advised that decisions made by ARCOM should not be based on likes and dislikes. Additionally, Mr. Randolph advised that the ARCOM members should not have any pre-determined decisions with regard to any project prior to hearing the facts presented to them. He also informed the ARCOM members that they should never state their opinion or any intent to vote on any project when meeting with architects or other people about a project. Mr. Randolph told the commissioners that if any one of them were a participant in any discussion or correspondence prior to an ARCOM public hearing, they must publicly disclose those communications during the opportunity meeting.

Members of the ARCOM took an opportunity to share their appreciation with Mr. Randolph, and they wished him well on his retirement.

V. **APPROVAL OF THE AGENDA**

Ms. Pardue advised the ARCOM that ARC-23-140 (ZON-23-118) at 2278 Ibis Isle Road was deferred to a date certain of today. The item was deferred and should have been placed on today's agenda as a deferral to the January meeting. The item would be on the January agenda.

A motion was made by Mr. Floersheimer and seconded by Mr. Sammons to approve the agenda as presented. The motion was carried unanimously, 7-0.

VI. **ADMINISTRATION OF THE OATH TO PERSONS WHO WISH TO TESTIFY**

Ms. Churney administered the oath and continued to do so throughout the meeting, as necessary.

VII. **COMMENTS FROM THE ARCHITECTURAL REVIEW COMMISSION MEMBERS**

No comments were heard at this time.

VIII. **COMMUNICATIONS FROM CITIZENS REGARDING NON-AGENDA ITEMS (3-MINUTE LIMIT, PLEASE)**

No comments were heard at this time.

IX. **PROJECT REVIEW**

A. **MAJOR PROJECTS-OLDBUSINESS**

1. **ARC-23-090 (ZON-23-068) 206 CARIBBEAN RD (COMBO)** The applicant, Walter Wick, has filed an application requesting Architectural Commission review and approval for the construction of a new two-story single-family residence with landscape, hardscape, and pool on a nonconforming parcel. This is a combination project that shall also be reviewed by Town Council as it pertains to zoning relief/approval.

Mr. Falco provided staff comments on the project. He noted that one letter of opposition was received.

Call for disclosure of ex parte communication: Disclosure by several members.

Roger Janssen, Dailey Janssen Architects, presented the architectural plans proposed for the new residence.

Dustin Mizell, Environment Design Group, presented the landscape and hardscape plans proposed for the site. He touched on the concerns of the neighbors. He stated that in response to the one letter of objection, Mr. Mizell said that he would be meeting with the neighbors to work out everyone's concerns. Mr. Smith suggested not approving the landscaping until the issues are resolved between neighbors.

Mr. Smith called for public comment.

Richard Card, 207 Mediterranean Road, thanked the owners for the changes that had been made to the plans. He expressed concerns about the placement of the mechanical equipment, the timing of the landscaping replacement, and the number of up-lights proposed.

Mr. Smith asked about the new site walls. Mr. Janssen responded and discussed the new site walls. Mr. Smith cautioned that he had seen Mr. Mizell's work on site walls that totally destroyed the neighbor's existing vegetation.

Mr. Sammons thought the new front façade was improved. He agreed that light pollution was a real issue. He suggested moving the one-story portion of the home to the east. He expressed objections to the fenestration as proposed. He felt that every door seemed to be a different width, and he was displeased with the proposed glazing. He suggested lowering the roof and reducing the mass of the rear portion of the home.

Mr. Corey asked about the site wall and its location in relation to the property line.

Lauren Urquhart, Dailey Janssen Architects, discussed the location of the site wall. Mr. Corey asked to see the location of the mechanical equipment because he thought it was spread out. Mr. Janssen reviewed the plans. Mr. Corey asked why the pool equipment was not going to be enclosed. Mr. Janssen said that would be a structure, and the setbacks would not allow enough space.

Mr. Falco discussed pool equipment in a setback and when it was required to be housed. He said this equipment was not required to be enclosed because it is outside the ten-foot rear setback.

Mr. Corey expressed concern with the design of the front elevation and thought it was cold and foreboding.

Ms. Catlin agreed with Mr. Sammons' comments. She thought the home had charm and curb appeal. She acknowledged that the home was designed without variances.

Ms. Connaughton liked the garage element on the front façade pushed back. She thought the front façade was improved. She agreed that Mr. Sammons had good comments. She recommended reducing the floorplan on the west elevation. Mr. Janssen discussed why he would rather reduce the height than take space out of the living room.

Mr. Floersheimer agreed with Mr. Corey's comments, particularly with his comments on the balcony. Mr. Floersheimer asked about the detail on the front façade. Mr. Janssen responded. Mr. Floersheimer asked about the step down to the second floor. Mr. Janssen explained the design element.

Ms. Shiverick asked about the potential changes in the landscaping due to the neighbor's comments. Mr. Mizell discussed the items that would change.

Mr. Corey wondered if the porch should be opened over the garage element.

Mr. Smith agreed with the comments of his fellow Commissioners.

Discussion ensued about a future direction.

Mrs. Wick advocated for the size of the living room as presented.

A motion was made by Mr. Corey to approve the project with the following conditions: restore the balcony over the garage, revise the fenestration on the west elevation and to defer the landscape plan to the January 24, 2024, meeting. The motion failed for a lack of a second.

A motion was made by Ms. Connaughton and was seconded by Ms. Shiverick to defer the project to the January 24, 2024, meeting in accordance with the comments from the Commissioners.

Mr. Floersheimer asked about the parapet over the front door.

The motion was carried unanimously, 7-0.

2. **ARC-23-123 (ZON-23-105) 1186 N OCEAN WAY (COMBO)** The applicant, Martha Lee Johnson 2012 Exempt Trust (Stan Johnson), has filed an application requesting Architectural Commission review and approval for the design of a new two-story residence with sitewide landscape and hardscape improvements, requiring setback and separation distance variances for the location of the pool equipment and a variance to exceed allowable chimney height. This is a combination project that shall also be reviewed by the Town Council as it pertains to zoning relief/approval.

Mr. Falco provided staff comments on the project. He noted that the project will only require one variance.

Call for disclosure of ex parte communication: Disclosure by several members.

Mr. Smith called for public comment.

Lore Smith, 256 Nightingale Trail, felt the home was contextually incongruous and thought the height of the home needed to be reduced.

Greg Tankersley, McAlpine, presented the architectural plans proposed for the new residence. He addressed comments from the previous meeting and included details of what had been changed and simplified on the elements of the façade.

Cory Meyer, Nievera Williams Design, presented the landscape and hardscape modifications for the site.

Ms. Shiverick thought the reduction of the details made a difference. She thought the home still had too much mass. She recommended eliminating the terrace on the side and stepping back to the front entrance. She questioned the scale of the lantern on the front entrance.

Mr. Corey thought the home was simplified; however, he thought the home still had too much mass for the site. He thought the front three gables exacerbated the massing issue. He thought the home was too big and fat. He recommended looking at designing a main house with a carriage house. He noted that the east elevation was the most successful. He was also concerned that the house did not fit into the streetscape.

Ms. Catlin agreed with Mr. Corey and thought the home was too large for the street. She stated she could not warm up to the design and felt like it occurred as a townhome. She thought the scale needed to be significantly reduced. She questioned if the home could be revised to fit into the neighborhood. Ms. Catlin noted that oversized lots do not always translate inside the neighborhood context to an oversized home related to that neighborhood.

Mr. Sammons questioned the home's structural design and the glass wall on the east and south elevations. He questioned whether a reduction would improve the design. He questioned if the design was a good fit for a tropical climate. He pointed out that there was no shade for the windows.

Ms. Connaughton asked about the interior spaces of the design. She agreed the home felt more northern but thought it could fit into the area. She wondered if the design could be changed into a courtyard home.

Mr. Floersheimer thought the professional listened to the Commissioners' comments. However, he expressed concern about the massing of the home. He wondered if the Commissioners should request story poles for this design.

Mr. Smith asked about the variances that had been eliminated. Mr. Falco responded that variances were previously requested for the height of the chimney and the pool setback and to exceed the proximity of the pool equipment from the swimming pool. The plan has been redesigned to eliminate the need for variances.

Mr. Smith asked about the elevations of the home. Kevin LaFerriere, McAlpine, discussed the streetscape produced for the project. Mr. Smith thought the house was too massive on the street and the landscaping was weak.

Mr. Corey questioned whether the home could be approved with the ARCOM ordinance. He listed the reasons he could not support the project.

A motion was made by Ms. Shiverick and was seconded by Mr. Floersheimer to defer the project to the February 28, 2024, meeting in accordance with the comments of the Commissioners. The motion was carried 5-2, with Mr. Corey and Ms. Catlin dissenting.

3. **ARC-23-135 225 WELLS RD.** The applicant, LLPB Trust (Andrea Lenczner, Trustee), has filed an application requesting Architectural Commission review and approval for construction of a new two-story single-family residence with final hardscape, landscape, and swimming pool.

Mr. Falco provided staff comments on the project.

Call for disclosure of ex parte communication: Disclosure by several members.

Mr. Smith called for public comment. No one indicated a desire to speak.

Daniel Menard, LaBerge & Menard, presented the architectural modifications proposed for the new two-story residence. He addressed comments from the previous meeting.

Todd MacLean, Todd MacLean Outdoors, presented the landscape and hardscape modifications proposed for the site.

Mr. Smith called for public comment. No one indicated a desire to speak.

Ms. Connaughton thought the changes to the front helped the design. She recommended reducing the two bays next to the front door.

Mr. Sammons was pleased with the front façade. He questioned the planters on the second floor. He wondered if the terrace on the rear could be reduced. He also asked if the middle section of the home could be reduced.

Ms. Shiverick wondered if a stucco staircase would be better than the proposed contemporary-looking metal staircase. Mr. Menard discussed a ribbon stucco staircase that he had proposed and would be open to doing as opposed to metal.

Mr. Floersheimer asked about the parapets over the garage. He liked the barrel tile roof but did not feel the parapet was necessary. Mr. Menard responded and explained the design.

Mr. Corey agreed that the staircase could be a feature rather than a simple design. He wished the home had been as wide as designed. He thought the front middle section could be slightly reduced.

Mr. Smith thought the parapet over the garage was too much. He did not favor the spiral staircase; he did not believe a staircase was necessary. He thought the terrace was too large.

Mr. Floersheimer wondered if the railings complied with the code.

A motion was made by Ms. Catlin and was seconded by Mr. Corey to defer the project to the January 24, 2024, meeting.

Mr. Corey requested that the rear landscaping provide privacy as appropriate for neighboring properties.

The motion was carried unanimously, 7-0.

4. **ARC-23-137 (ZON-23-104) 310 CLARKE AVE (COMBO)** The applicant, Mark & Patricia Davies, has filed an application requesting Architectural Commission review and approval for changes to an approved new two-story residence including changes to architectural details, hardscape/landscape, and arrangement of equipment yards, requiring variances for equipment location and screening wall heights. This is a combination project that shall be reviewed by Town Council as it pertains to zoning relief/approval.

Mr. Falco provided staff comments on the project.

Call for disclosure of ex parte communication: Disclosure by several members.

Mr. Smith called for public comment. No one indicated a desire to speak.

Michael Perry, MP Design and Architecture, presented the architectural modifications proposed for the new residence. He explained the variance requests for the project.

Mr. Floersheimer stated that the owner was pleasant and desired to comply with the Code. Mr. Floersheimer asked if the water heaters counted as equipment. Mr. Falco responded that the code is silent on exterior water heaters; therefore, they were not counted as equipment. Mr. Floersheimer thought keeping all the equipment in one area made sense. Mr. Floersheimer discussed the cover to be placed over the pumps in the yard. Mr. Perry explained the cover and stated that they were in compliance with the code. Mr. Floersheimer thought the plantings on the west side should be tall enough to screen the neighbors. Mr. Perry stated that Mr. Horgan had requested a taller wall on the west side.

Mr. Corey asked for a further explanation of the variances. Mr. Perry described the variance requests. Mr. Corey wondered if any of the equipment could be placed in the house; he discussed different areas where the equipment could be placed. He stated he would support raising the height of the wall but could not support the variances that would allow for equipment within the setbacks.

Mr. Shiverick asked about the location of the transfer switch. Mr. Perry showed Ms. Shiverick the location. She wondered if the switch could be painted. Ms. Shiverick asked about the railings on the east elevation. Mr. Perry showed Ms. Shiverick the new design.

Ms. Catlin thought keeping all the equipment in one enclosure made sense. She wondered if this would be a trend with the larger equipment. Mr. Falco responded.

Mr. Smith did not support the variances and thought the professional hoodwinked the Commission.

A motion was made by Mr. Corey and was seconded by Ms. Shiverick to approve the site walls to be raised on the east and west sides, the architectural elements of the project, and the direction to move the pool heater and the a/c unit out of the setback. The motion was carried 6-1, with Ms. Connaughton dissenting.

A motion was made by Mr. Corey and was seconded by Ms. Shiverick that implementation of the proposed variances will not cause negative architectural impact to the subject property. The motion was carried 6-1, with Mr. Floersheimer dissenting.

5. **ARC-23-146 (ZON-23-146) 995 S OCEAN BLVD.** The applicant, Mary S. Conrad, has filed an application requesting Architectural Commission review and approval of a second-story addition requiring variances to build within the required setbacks. This is a combination project that shall also be reviewed by Town Council as it pertains to zoning relief/approval.

Ms. Pardue provided staff comments on the project.

Call for disclosure of ex parte communication: Disclosure by several members.

Mr. Smith called for public comment. No one indicated a desire to speak.

Jacqueline Albarran, SKA Architect + Planner, presented the architectural modifications for the proposed addition to the existing residence.

Mr. Floersheimer had trouble supporting the addition due to the requested variances. He felt that the town's residents' light and air were being impinged by additional construction. He reiterated that he thought an artist's studio on the other side of the home over the master bedroom would have made much more sense.

Mr. Corey asked why the balcony was designed as a solid balcony. Ms. Albarran stated she was matching the balcony on the rear. He thought the addition improved the architecture.

Ms. Catlin wondered if the variances existed regardless of the addition. Ms. Pardue said the house was already nonconforming. Ms. Catlin thought the house's charm had been significantly improved with the addition.

Ms. Connaughton wondered about the parapet wall on the balcony; she recommended a more open balcony.

Mr. Smith thought the addition was unnecessary.

Ms. Shiverick agreed with Mr. Floersheimer and thought the home was close to the street. She wondered if the home would add to the overbuilt nature of the street.

Mr. Sammons thought the addition was minimal and would not impact the street.

A motion was made by Mr. Corey and was seconded by Mr. Sammons to approve the project as presented. The motion was carried 4-3, with Ms. Shiverick and Messrs. Floersheimer and Smith dissenting.

A motion was made by Mr. Corey and was seconded by Ms. Connaughton that implementation of the proposed variances will not cause negative architectural impact on the subject property. The motion was carried 4-3, with Ms. Shiverick and Messrs. Floersheimer and Smith dissenting.

6. **ARC-23-145 (ZON-23-113) 123 CHILEAN AVE (COMBO)** The applicant, Robert & Perri Bishop, has filed an application requesting Architectural Commission review and approval for construction of a new two-story single-family residence and one-story accessory cabana structure with final hardscape, landscape and swimming pool, requiring Special Exception approval to develop a nonconforming parcel and variances to reduce the required side setbacks and to exceed the maximum cubic content ratio (CCR) permitted. This is a combination project that shall also be reviewed by Town Council as it pertains to zoning relief/approval.

Maura Ziska, the attorney for the applicant, requested a one-month deferral to continue working with the neighbors.

A motion was made by Mr. Floersheimer and seconded by Ms. Connaughton to defer the project to the meeting on January 24, 2024. The motion was carried unanimously, 7-0.

7. **ARC-23-092 (ZON-23-070) 217 BAHAMA LN (COMBO)** The applicant, James, and Sarah McCann, have filed an application requesting Architectural Commission review and approval for the construction of a new two-story single-family residence and associated landscape and hardscape on a lot substandard in lot depth in the R-B zoning district. This is a combination project that shall also be reviewed by the Town Council as it pertains to zoning relief/approval.

Clerk's note: This item was deferred to the January 24, 2024, meeting at Item V., Approval of the Agenda.

8. **ARC-23-109 (ZON-23-084) 600 TARPON WAY (COMBO)** The applicants, Frank and Annie Falk, have filed an application requesting Architectural Commission review and approval for the construction of a new

two-story single-family residence over 10,000 SF with sitewide landscape and hardscape improvements, requiring variances for mechanical equipment placement, building height plane, and site wall height, and a Special Exception for vehicular gate placement. This is a combination project that shall also be reviewed by Town Council as it pertains to zoning relief/approval.

Clerk's note: This item was deferred to the January 24, 2024, meeting at Item V., Approval of the Agenda.

B. MAJOR PROJECTS-NEW BUSINESS

1. **ARC-23-094 (ZON-23-072) 247-251 WORTH AVE (COMBO)** The applicant, Holbrook Real Estate LLC, has filed an application requesting Architectural Commission review and approval for a two-story addition to an existing one-story commercial building under the Special Allowances in accordance with the Worth Avenue Design Guidelines, including several variances from lot coverage, floor area square footage, commercial and residential use locations, parking requirements, landscape open space, and loading space requirements. This is a combination project that shall also be reviewed by Town Council as it pertains to zoning relief/approval.

Ms. Mittner provided staff comments on the project.

Call for disclosure of ex parte communication: Disclosure by several members.

Clerk's note: Ms. Catlin and Mr. Floersheimer declared a conflict of interest with the project and left the dais during the discussion.

Maura Ziska, the attorney for the applicant, provided an overview of the project and advocated for a positive recommendation to the Town Council. She said the Town Council had looked at the project for two months and found it had merit. Subsequently, they referred the project to ARCOM to vote on the design and make recommendations to them prior to their approval.

Mr. Janssen noted that the owners, Jayne and Rusty Holzer and Mindy Schwab from Dailey Janssen Architects, were present.

Roger Janssen, Dailey Janssen Architects, presented the architectural plans proposed for the existing commercial structure. He noted that the proposal was for a second story component that would supplement the existing retailers out of their need for their operations and retail functions. The third level would be a residence for the owners of the building. Mr. Janssen stated that through studying the Worth Avenue Guidelines, working with the Preservation Foundation and the owners, and studying Worth Avenue, he believed this addition could be a harmonious addition for Worth Avenue. He reviewed the varied architectural styles along Worth Avenue. Mr. Janssen spoke about the facades that had been altered over the years. He said the idea would be in elevation and massing, given the urban context, to take the second story from property line to property line to continue the appropriate urban context but still step it back five feet to create and isolate the recreated parapet wall from the original wall. It would not be a continuation of that first-story plane. In addition, the residence would be stepped back another ten feet to relieve the mass off the street, even though some three stories go full vertical across the street. The original Jacobs design was used as a spring point for the deco motif.

Dustin Mizell, Environment Design Group, presented the landscape and hardscape plans proposed for the site.

Mr. Smith called for public comment.

Anita Setzer, 44 Cocoanut Row, expressed concern about the process of ARCOM hearing the project before approval by the Town Council.

Aimee Sunny, Preservation Foundation of Palm Beach, provided some background information and historical drawings of the building. She stressed the importance of respecting the Art Deco character of the building and, to every extent possible, restoring every detail that is missing from the building. She offered some advice to ARCOM for consideration when looking at the additions to the building.

Anne Pepper, 333 Seaspray Avenue, expressed concern about the process of hearing the project prior to the approval of the Town Council.

Mr. Corey wondered about the Town Council's decision to send the project to the Architectural Commission. Ms. Mittner responded that the Town Council asked the Commission to look at the project regarding the architecture and the Worth Avenue Design Guidelines.

Mr. Sammons wondered if the ground floor would be restored. Mr. Janssen responded. Mr. Sammons thought it was critical to restore the building, and the Art Deco details were important. He thought the second story could be lowered. He supported the idea of the project but thought the ground façade needed to be restored with the art deco elements. He thought that returning some of the Art Deco details would give the building enough scale to "talk" to the other side of the street. He thought that the landscaping should provide more shade in the area. He provided a suggestion for the third-floor concrete walkway; he suggested adding piers below. He recommended changing the design of the new stairway.

Ms. Shiverick agreed with Mr. Sammons that the first floor needed to be changed to match the rest of the building. She was not in favor of the awning in Le Bilboquet. Ms. Shiverick felt the awning was a genuine Art Deco feature, and she wanted to see that restudied and changed to reflect a truer Art Deco feel. Mr. Janssen responded. She thought the Art Deco elements tied in nicely on the street. She thought tiering of the building would work, even though it was not an Art Deco element. She also thought the third-floor walkway could be improved.

Ms. Connaughton thought the building needed to be reduced in height. She recommended showing an aerial view of the building from the east. She thought the courtyard would be very dark and cavernous. She recommended restudying the design of the new staircase. Mr. Janssen responded about the shade in the courtyard.

Mr. Corey thought the structure dominated the street. He thought the project should be dropped down, moving east. He recommended removing the third floor.

He also expressed concern for the courtyard with adding a third floor. He agreed that a restoration of the first floor would be important.

Mr. Smith was in favor of the first-floor restoration. However, he did not favor the remainder of the upper floors. He was not supportive of the five-foot setback.

Mr. Corey questioned if the Commission was to opine on the special exceptions. Mr. Bergman responded and explained the Commission's purview.

Ms. Connaughton requested street views.

Mr. Corey asked staff to make a presentation on the Worth Avenue Design Guidelines and what the Commission should be reviewing.

Ms. Shiverick asked if a third floor was allowable if the architecture complied with the Worth Avenue Design Guidelines. Mr. Bergman said the Town Council needs some help understanding whether or not this proposed project meets Worth Avenue Guidelines. If the project does meet those guidelines, a special allowance may be provided to the owner. The Town Council would approve that special allowance through the Special Exception Use process.

Mr. Corey thought it was good to hear the presentation in order to determine what additional information would be needed before any further consideration.

A motion was made by Mr. Corey and was seconded by Mr. Sammons to defer the project to the January 24, 2024, meeting. The motion was carried unanimously, 5-0.

2. **ARC-23-052 (ZON-23-092) 300 COLONIAL LN (COMBO)** The applicants, Dragana & Richard Connaughton, have filed an application requesting Architectural Commission review and approval for construction of a new two-story single-family residence requiring (2) variances from east side yard setback and (1) variance from mechanical equipment regulations and construction of a detached accessory structure requiring (2) setback variances, (1) lot coverage variance and (1) angle of vision variance, together with final hardscape, landscape, and swimming pool. This is a combination project that shall also be reviewed by Town Council as it pertains to zoning relief/approval.

Mr. Falco provided staff comments on the project.

Call for disclosure of ex parte communication: Disclosure by several members.

Clerk's note: Ms. Connaughton declared a conflict of interest with the project and left the dais during the discussion.

Patrick O'Connell, Patrick Ryan O'Connell Architects, presented the architectural plans proposed for the new residence.

Dustin Mizell, Environment Design, presented the landscape and hardscape plans proposed for the site.

Mr. Sammons recommended dropping the second floor down a few inches. He questioned the slat house design and the rear porch; he recommended a masonry-constructed porch. Other than reducing the height, he thought it was a nice project.

Mr. Corey thought the first floor was more successful than the second floor. He thought the roof pitch might need to be restudied. He recommended trying to eliminate some of the variances; however, he supported the variances for the slat house. He questioned the variance for the equipment and wondered if it could be moved toward the street.

Ms. Catlin thought the home had curb appeal and charm. She agreed that the height could be reduced and agreed with Mr. Corey that the variances for the home could be eliminated. She wondered if the design for the slat house could be changed to eliminate the variance. Maura Ziska, the owner's attorney, stated she could investigate the suggestion.

Ms. Shiverick had struggled with the roof pitch from the beginning and was not fond of the long pitch of the garage roof. She felt the chimney was in the way of the design and recommended moving it to a different location.

Mr. Smith recommended removing the slat house and returning with the design later. He also recommended eliminating the variances for the house.

Mr. O'Connell noted that the variances are necessary for the side yard to make the side-living garage functional. He said a very important part of the design and to the street was to get the garages off the front of the homes.

Mr. Floersheimer agreed with the comments made by his fellow Commissioners. He liked the whimsical and Bermuda design of the home. He was unsure about the scale of everything based on the renderings provided. He asked if the current house is ten and a half feet off the east lot line, and given the restrictions of a corner lot with twenty-five-foot setbacks on the north and west, he might support recommending that variance to the town council. However, he had issues with the slat house.

Mr. Smith called for public comment.

Susan Leas, 292 Colonial Lane, expressed her objections to the proposed home.

Ken Franklin, 1105 N. Lake Way, expressed his objections to the proposed home.

David Kelso, 245 Monterey Road, expressed his objections to the proposed home.

Richard Connaughton, owner of 300 Colonial Lane, advocated for the proposed design.

Dragana Connaughton, owner of 300 Colonial Lane, advocated for the proposed design.

Leigh Dunston, 282 Monterey Road, expressed his objections to the proposed home.

Mr. Corey suggested flipping the orientation of the home so that the two-story portion was adjacent to N. Lake Way.

A motion was made by Mr. Corey and was seconded by Mr. Sammons to defer the project to the January 24, 2024, meeting. The motion was carried unanimously, 6-0.

Clerk's note: A lunch break was taken at 1:11 p.m. The meeting resumed at 2:14 p.m.

3. **ARC-23-075 389 S LAKE DR.** The applicant, Cooperative Apartments of Three Eighty-Nine Corporation, has filed an application requesting Architectural Commission review and approval for the permanent removal of the decorative concrete brise soleil architectural feature of an existing six-story residential building, and other exterior building modifications including window opening enhancements and the addition of a new decorative metal grilles and associated improvements.

Ms. Mittner provided staff comments on the project.

Call for disclosure of ex parte communication: Disclosure by several members.

Jamie Gavigan, the applicant's attorney, provided an overview of the project and advocated for approval.

David Miller, David Miller & Associates, PA, presented the architectural modifications proposed for the existing condominium.

Tim Marshall, Engineer, discussed the removal of the decorative concrete element and the safety issues that go along with the removal.

Mr. Smith called for public comment.

Lorraine Tuohy, 389 S. Lake Drive, spoke in favor of the proposed changes.

Carey O'Donnell, 389 S. Lake Drive, spoke about the old windows behind the concrete element; she highlighted what it was like to live with the windows. She said the windows allow dirt, grime, and water intrusion into the structure.

Jane Scott, 389 S. Lake Drive, spoke about the issues with the apartment building. She said it was impossible to clean the windows, and the mold was terrible.

Robin Roberts, 389 S. Lake Drive, thought public policy should dictate the safety of citizens, and that should be more important than aesthetics.

Jim Diack, 389 S. Lake Drive, 1C, advocated for the proposed changes.

Charles Wittman, 389 S. Lake Drive, advocated for the proposed changes.

Aimee Sunny, Preservation Foundation of Palm Beach, provided some historical information about the building and design. She noted the decorative breezeway used was an important mid-century modern character-defining feature. She added that the proposed railings would be atypical to the character of the style.

Ms. Mittner stressed that life safety is taken very seriously, hence the allowance for removal with the intention of it being replaced in a similar design but with new materials.

Mr. Floersheimer thought it was sad to see a historical element of the building disappear; however, he sympathized with the residents. He liked the trim around the windows but did not favor the railing.

Ms. Catlin lamented when a historical element was in direct conflict with the structural integrity of a building. Unfortunately, she noted that what was is not always the right path forward.

Mr. Corey wondered if there was a life safety issue with the concrete element in front of the master bedroom. Ms. Mittner responded. Mr. Miller stated that since 29 of the 32 balconies on the master bedrooms had been filled in, there was no egress from these rooms. Mr. Corey was not supportive of the proposed railing in front of the bedroom window. He suggested a texture on the solid concrete elements to bring back some verticality. He asked about the original color of the building. Mr. Miller responded it was a blue color that faded over time. The color was changed to yellow in 2008. Mr. Corey asked about changing the railings. Mr. Miller responded that the railings were changed in approximately 2008 and were approved by the town.

Ms. Shiverick asked about the vote taken by the residents of the building to have the Brise soleil removed but with the intention of it being replaced. Mr. Miller responded that the building owner had applied for a reconstruction permit to address their concrete needs to preserve and protect the building. Ms. Shiverick asked if the intention was to replace the Brise soleil, but Mr. Miller said the understanding when the permit was applied was that the screen wall would remain. He did not think there was a vote. Mr. Marshall discussed the safety issues and recommended the removal of the Brise soleil to the owner. He said he knew that removing all the railings and screen walls at one time and not being able to put them back would attract the attention of the board. However, this had to be done because of the integrity issue. He said there would be a season where no pre-cast railings would be in place. Ms. Shiverick thought the building was not aesthetically pleasing without the screens and with the addition of railings.

Mr. Floersheimer wondered how permits were obtained to fill in the balconies.

Mr. Corey asked if the proposed railings below the windows were for code. Mr. Miller responded that the client desired more texture than a plain banded window. In addition, the windows are low, and another code requirement is for windows to have a guardrail once higher than the first floor. Mr. Corey provided a design suggestion for the balcony and the concrete space around the windows.

Ms. Shiverick wondered if the block could be added back to the building around the windows to provide elements of the original building but without egress issues. Mr. Miller was concerned that the same situation would be created and would be unable to be maintained.

Mr. Smith thought the verticality of the building had been lost, making the building monotonous. He recommended concentrating on bringing the verticality back.

A motion was made by Ms. Shiverick and was seconded by Mr. Floersheimer to defer the project to the January 24, 2024, meeting. The motion was carried unanimously, 7-0.

4. **ARC-23-154 (ZON-23-120) 1356 N OCEAN BLVD (COMBO)** The applicant, Gary & Kelly Pohrer, has filed an application requesting Architectural Commission review and approval for expansion of a previously approved swimming pool on the beachside parcel, requiring a setback variance. This is a combination project that shall be reviewed by Town Council as it pertains to the zoning relief/approval.

Ms. Pardue provided staff comments on the project. She noted that staff would be asking for an extension on the development order. She outlined the variance request.

Call for disclosure of ex parte communication: Disclosure by several members.

Gary Pohrer, the owner, presented the revision to the plans proposed for the site.

Mr. Smith asked if any landscaping would be lost, and Mr. Pohrer said no.

Mr. Sammons had no objection to the request.

Mr. Floersheimer said that when he visited the property, there seemed to be a lot of vegetation from the ocean side that encroached onto the property. He said that on the plan there was a bulkhead wall, but upon visiting the property, he could not see it. Ms. Pardue said there is no landscape area being addressed today; the landscaping was vetted through the previous application submitted by Smith & Moore and the homeowner, in which the parcel was being revamped for the cabana and the pool. The variances did not impact open space. Today, the site is waiting to be worked on so the previously approved structures can be constructed. There has been a long process with DEP, and the delay allowed an opportunity for the owner to request the addition of a sun shelf to the swimming pool.

Mr. Corey asked if the application with DEP had been modified for a larger pool (addition of the sun shelf).

Ms. Catlin expressed concern about the request. She said the Commission has been asking for a swimming pool without a variance. Mr. Pohrer said the pool was granted a variance, and Ms. Catlin was concerned that the applicant was asking for even more.

A motion was made by Mr. Floersheimer and was seconded by Mr. Sammons to approve the project as presented. The motion was carried 5-2, with Ms. Catlin and Mr. Corey dissenting.

A motion was made by Mr. Floersheimer and was seconded by Mr. Sammons that implementation of the proposed variances will not cause negative architectural impact to the subject property. The motion was carried 5-2, with Ms. Catlin and Mr. Corey dissenting.

A motion was made by Mr. Floersheimer and seconded by Ms. Connaughton to extend the approval of ARC-22-143, 1356 N. Ocean Blvd., for one year. The motion was carried unanimously, 7-0.

5. **ARC-23-159 (ZON-24-005) 288 SANDPIPER DR (COMBO)** The applicant, Kelly M Williams TR TITL HLDR (Rep. Maura Ziska), has filed an application requesting Architectural Commission review and approval for exterior alterations to an existing detached guest house, including window and door replacement and the construction of enclosed additions, requiring a rear setback variance. This is a combination project that shall be reviewed by Town Council as it pertains to the zoning relief/approval.

Mr. Falco provided staff comments on the project.

Call for disclosure of ex parte communication: Disclosure by several members.

Maura Ziska, the attorney for the applicant, provided an overview of the project and advocated for a positive recommendation to the Town Council.

Michael Perry, MP Design & Architecture, presented the architectural plans proposed for the existing guest house.

Mr. Smith called for public comment. No one indicated a desire to speak.

Mr. Floersheimer supported the infill and addition but did not believe the seating area should be removed. Mr. Perry responded.

Ms. Catlin also liked the project.

Ms. Shiverick agreed but wondered if some of the glass blocks could be added to a different spot. Mr. Perry responded.

Ms. Connaughton agreed with Ms. Shiverick's comments on the glass block. She thought it made the home charming.

Mr. Corey asked about the remaining glass block and wondered if it compromised the rest of the structure. Mr. Perry said it stays where it is, but everything else is being replaced.

Mr. Sammons said two fiberglass rods and joints could be added, but he said they did not have to be rated because it was masonry, not a window.

Mr. Perry stated he could leave the glass block on the east elevation, and the only area that would have to be replaced would be at the radius.

A motion was made by Mr. Floersheimer and was seconded by Ms. Shiverick to approve the infill addition, the dining room addition, and the conditions that the glass wall on the east side, as well as the glass strip, shall remain. The lanai addition was not approved. The motion was carried 4-3, with Mses. Catlin, Connaughton and Mr. Smith dissenting.

A motion was made by Mr. Floersheimer and was seconded by Ms. Shiverick that implementation of the proposed variances will not cause negative architectural impact to the subject property. The motion was carried 6-1, with Mr. Smith dissenting.

6. **ARC-23-165 (ZON-24-008) 161 VIA PALMA (COMBO)** The applicant, Sam and Vicki Hunt, has filed an application requesting Architectural Commission review and approval for construction of a new two-story addition, requiring a west side-yard setback variance. This is a combination project that shall be reviewed by Town Council as it pertains to the zoning relief/approval.

Mr. Falco provided staff comments on the project.

Call for disclosure of ex parte communication: Disclosure by several members.

Maura Ziska, the attorney for the applicant, provided an overview of the project and advocated for a positive recommendation to the Town Council.

Harold Smith, Smith and Moore, presented the architectural plans proposed for the addition to the existing residence.

Jacqueline Bayliss, Fernando Wong Outdoor Living Design, presented the landscape and hardscape plans for the site.

Mr. Smith called for public comment. No one indicated a desire to speak.

Mr. Corey thought the existing home was very charming. He asked about the shed on the west side. Mr. Smith did not have the history of the shed. He agreed that the garage doors were narrow. Mr. Corey wondered if the shed could be incorporated into the garage. Mr. Smith responded. Mr. Corey wondered if the west neighbor had any objection to the project. Mr. Smith stated that he had not spoken to the neighbor.

Ms. Connaughton thought the project was fine.

Mr. Sammons thought the project was minor.

Mr. Corey was concerned about the house to the west being at a slightly lower elevation. Mr. Perry said it was slightly lower but covered more of the lot than the proposed home.

A motion was made by Ms. Catlin and was seconded by Mr. Sammons to approve the project as presented. The motion was carried unanimously, 7-0.

A motion was made by Ms. Catlin and was seconded by Ms. Shiverick that implementation of the proposed variances will not cause negative architectural impact to the subject property. The motion was carried unanimously, 7-0.

7. **ARC-23-167 (ZON-24-009) 350 SEABREEZE AVE (COMBO)** The applicant, Judith Goodman (Contract Purchaser, Justin Besikof / Rep. Maura Ziska), has filed an application requesting Architectural Commission review and approval for the design of a new two-story single-family residence and sitewide landscape and hardscape improvements, requiring a variance to not provide garage parking. This is a combination project that shall also be reviewed by Town Council as it pertains to the zoning relief/approval.

Ms. Mittner provided staff comments on the project.

Call for disclosure of ex parte communication: Disclosure by several members.

Maura Ziska, the attorney for the applicant, provided an overview of the project and advocated for a positive recommendation to the Town Council.

Pat Segraves, SKA Architect + Planner, presented the architectural plans proposed for the new residence.

Dustin Mizell, Environment Design Group, presented the landscape and hardscape plans for the site.

Mr. Smith called for public comment.

Anne Pepper, 333 Seaspray Avenue, stated she thought the new residence was an enhancement. She advocated supporting the variance for the Porte-cochere. She also recommended eliminating some of the hardscape.

Mr. Sammons asked about the width of the curb cuts. Mr. Mizell responded. Mr. Sammons thought the home was tall, particularly from the first floor. He expressed concern about the design of the column as proposed. He recommended restudying the detailing. He recommended lowering the parapet on the second floor of the front elevation. He thought the portion of the home with the gable was a bit thin.

Mr. Corey thought the home was charming. He did not believe the home was too tall. He thought the home fit onto the street. He asked to see a sample of the roof. He recommended removing the columns on the carport. He supported the design. He also supported the landscape plan.

Mr. Floersheimer was glad that there were no requests for variances. Mr. Floersheimer asked about the easement in the rear of the home once the undergrounding had been completed. Mr. Segraves responded. Mr. Floersheimer thought there was a lot of hardscape material; he questioned the greenspace calculations. Mr. Mizell responded. Discussion ensued. Mr. Floersheimer asked if one of the curb cuts could be eliminated. Mr. Mizell responded.

Ms. Shiverick thought a few more details could be added to the home. She recommended removing the mahogany windows; she thought a painted window would be more appropriate. She recommended adding a stone around the Porte Cochere rather than the columns proposed. Mr. Segraves responded.

Ms. Catlin agreed that the home, as proposed, was too tall. She liked the design of the home but expressed concern about the elimination of the garage; she pointed out that there was no space for storage.

Ms. Connaughton supported the Porte Cochere. She also recommended a study of the details. She thought the second story could come down a little.

Mr. Corey did not believe the home was excessively tall. He also thought removing the columns would help ground the home.

Mr. Corey wondered if some of the hardscape could be eliminated in the rear of the home.

A motion was made by Mr. Corey and was seconded by Ms. Connaughton to defer the project to the January 24, 2024, meeting. The motion was carried unanimously, 7-0.

C. MINOR PROJECTS - OLD BUSINESS

1. **ARC-23-152 11 VIA VIZCAYA** The applicant, Johnathan Clay, has filed an application requesting Architectural Commission review and approval for modifications to existing landscape and hardscape on a site improved with an existing single-family residence.

Mr. Falco provided staff comments on the project.

Call for disclosure of ex parte communication: Disclosure by several members.

Dustin Mizell, Environment Design Group, presented the landscape and hardscape modifications proposed for the site.

Mr. Smith called for public comment. No one indicated a desire to speak.

Mr. Floersheimer asked for clarification on the proposed gates.

Mr. Corey confirmed that the chain fence would be buried in the landscaping. Mr. Mizell affirmed.

A motion was made by Mr. Floersheimer and was seconded by Mr. Corey to approve the project as presented. The motion was carried unanimously, 7-0.

2. **ARC-23-153 12 VIA VIZCAYA** The applicant, County Down Trust (Andrew W. Regan, Trustee), has filed an application requesting Architectural Commission review and approval for modifications to landscape and addition of a fence on a vacant parcel of land.

There was no further discussion on this project, as the details were discussed with ARC-23-152, 11 Via Vizcaya.

A motion was made by Mr. Floersheimer and was seconded by Ms. Connaughton to approve the project as presented. The motion was carried unanimously, 7-0.

D. MINOR PROJECTS-NEW BUSINESS

1. **ARC-23-136 1350 N LAKE WAY** The applicant, 1350 North Lake Way Acquisitions LLC, has filed an application requesting Architectural Commission review and approval for replacement of a vehicular gate, front door and balcony railings and landscape and hardscape modifications.

Ms. Pardue provided staff comments on the project.

Call for disclosure of ex parte communication: Disclosure by several members.

Cory Meyer, Nievera Williams Design, provided an overview of the project.

Harold Smith, Smith and Moore Architects, presented the architectural modifications proposed for the existing residence.

Mr. Meyer presented the landscape and hardscape modifications proposed for the site.

Mr. Smith called for public comment. No one indicated a desire to speak.

Mr. Sammons thought some of the changes were fine; however, he did not favor the plate glass window between the windows. He said it was a jump in scale and was not consistent with the rest of the house. In addition, he said the glass on the back side of the spa was not in keeping with the rest of the house. He questioned why they would want to change the front door but keep the portico when that was the real problem. He was okay with the front gate, but he did not like the cap on the post.

Mr. Floersheimer liked the balustrade but did not like the bedroom window or the balcony railings. He agreed that the master bedroom window was not in keeping with the rest of the house. He noted that the current gate was a sliding gate, but a swing gate was being proposed. Mr. Smith responded that the gate would remain

a sliding gate. Mr. Floersheimer was okay with the change to the spa and plunge pool.

Ms. Shiverick asked about the change to the railings; she questioned the pattern around the home. She also did not like the master bedroom plate glass or the glass around the spa.

Mr. Smith did not favor the plate glass window in the bedroom. He asked about the bronze-colored driveway gate. He also commented about the glass around the pool. He had no objection to changing the balustrade and railings because he did not feel they were right for the house.

A motion was made by Mr. Floersheimer and was seconded by Ms. Catlin to defer the project to the January 24, 2024, meeting. The motion was carried 6-1, with Mr. Corey dissenting.

Discussion ensued.

A motion was made by Ms. Connaughton and was seconded by Mr. Corey to reopen the previous motion. The motion was carried 6-1, with Mr. Smith dissenting.

A motion was made by Mr. Corey to approve the project as presented with the condition that the finials over the front door, the glass railing in the spa, and the plate glass in the master bedroom should be removed. The motion died for lack of a second.

A motion was made by Mr. Corey and was seconded by Mr. Floersheimer to defer the project to the January 24, 2024, meeting. The motion was carried unanimously, 7-0.

2. **ARC-23-156 125 WELLS RD.** The applicant, Amy Baier, has filed an application requesting Architectural Commission review and approval for installation of vehicular gates and modifications to the front entry door of an existing two-story residence.

Ms. Pardue provided staff comments on the project.

Call for disclosure of ex parte communication: Disclosure by several members.

Keith Williams, Nievera Williams Design presented the proposed vehicular gates for the existing residence.

Mr. Sammons supported the gates but thought there could be nicer details on the gate. He explained what he thought could be changed to make the gate better.

A motion was made by Mr. Floersheimer and was seconded by Ms. Shiverick to approve the project as presented.

Mr. Smith called for public comment. No one indicated a desire to speak.

The motion was carried unanimously, 6-0. (Mr. Corey was not in the room during the vote)

3. **ARC-23-158 152 CHILEAN AVE.** The applicants, William and Molly McKenna, have filed an application requesting Architectural Commission review and approval for the construction of a new driveway and associated landscape modifications.

Ms. Pardue provided staff comments on the project.

Call for disclosure of ex parte communication: Disclosure by several members.

Cory Meyer, Nievera Williams Design, presented the landscape and hardscape modifications proposed for the site.

Mr. Floersheimer asked about the calculations for greenspace. He thought there was a lot of hardscape material and asked if some of it could be removed. Mr. Meyer noted that the driveway space was being removed. He said they were trying to keep the cars off the street but would look at the hardscape again.

Mr. Sammons thought the curb cut was too large.

Mr. Smith called for public comment. No one indicated a desire to speak.

A motion was made by Mr. Sammons and was seconded by Ms. Catlin to approve the project as presented with the condition that the curb cut be reduced to 11 feet. The motion was carried unanimously, 7-0.

4. **ARC-23-160 1246 N LAKE WAY** The applicants, Myron M. Miller, have filed an application requesting Architectural Commission review and approval for the site-wide landscape and hardscape improvements to an existing residence.

Ms. Pardue provided staff comments on the project.

Call for disclosure of ex parte communication: Disclosure by several members.

Don Skowron, BGS Landscape Architecture & Engineering, presented the landscape and hardscape modifications proposed for the site.

Mr. Floersheimer thought the property was interesting and would be better if it was cleaned up. He asked about the change to the wall height. Mr. Skowron responded that it was all measured from the crown of the road, and it followed the town code. He referred to the existing pool equipment in the front yard against the existing garage. He noted that the wood fence was marked as being retained. Mr. Skowron explained the existing condition and how the landscape would be utilized to hide that condition. He said the pool equipment was in the front yard, but it would not be a setback. Mr. Floersheimer asked if the pool equipment would be

enclosed, and Mr. Skowron said there were no plans to enclose the pool, which he did not believe would be visible.

Mr. Sammons was happy about the reduction of the hardscape. He wondered if there could be more shade trees added in the front of the property. Mr. Skowron thought the existing Sea grape trees were sufficient. He wondered if the curb cut could be reduced.

Ms. Connaughton asked about the pruning of the tree and how it would be modified. She wondered about the reduction of hardscape in the courtyard area. Mr. Skowron responded.

Mr. Floersheimer questioned why the windows were not being replaced with hurricane-proof windows.

Mr. Corey wondered about the Sabal palms on the south side; he thought this area had more potential. Mr. Skowron responded. Mr. Corey asked about the removal of the Gumbo Limbo trees. Mr. Skowron responded.

A motion was made by Mr. Floersheimer and was seconded by Mr. Corey to approve the project as presented. The motion was carried 5-1, with Ms. Connaughton dissenting.

Clerk's note: Ms. Catlin left at 5:00 p.m. Mr. Corey left at 5:03 p.m.

5. **ARC-23-164 (ZON-24-010) 1616 N OCEAN BLVD.** The applicants, Joan Eigen, Wendy Haigney and Devid Eigen, have filed an application requesting Architectural Commission review and approval for the installation of vehicular gates to an existing single-family residence and a variance for the required driveway area. This is a combination project that shall also be reviewed by Town Council as it pertains to zoning relief/approval.

Ms. Pardue provided staff comments on the project.

Call for disclosure of ex parte communication: Disclosure by Mr. Floersheimer and Ms. Connaughton.

Maura Ziska, the applicant's attorney, provided an overview of the project and advocated for approval.

Harold Smith, Smith and Moore Architects, presented the architectural plans for the gates proposed for the existing residence.

Mr. Floersheimer stated he did not support the gates but would approve them under the circumstances.

Mr. Smith called for public comment. No one indicated a desire to speak.

A motion was made by Ms. Shiverick and was seconded by Mr. Sammons to approve the project as presented. The motion was carried unanimously,

5-0.

X. **Unscheduled Items**

A. **Public**

No comments were heard at this time.

B. **Staff**

No comments were heard at this time.

C. **Commission**

Mr. Sammons asked about chimneys. He also asked about parapets on a flat roof versus on a pitched roof.

Roger Janssen, Dailey Janssen Architects, asked for a reconsideration of the motion on his project at 206 Caribbean Road.

A motion was made by Mr. Floersheimer and was seconded by Ms. Connaughton to reconsider the motion for ARC-23-090, 206 Caribbean Road. The motion was carried 4-1, with Mr. Smith dissenting.

Mr. Janssen presented the changes he had made since the morning presentation. There were still many questions among the Commissioners.

A motion was made by Mr. Floersheimer and was seconded by Mr. Sammons to defer the project to the January 24, 2024, meeting. The motion was carried unanimously, 5-0.

XI. **NEXT MEETING DATE:** Wednesday, January 24, 2024

XII. **ADJOURNMENT**

A motion was made by Mr. Floersheimer and seconded by Mr. Sammons to adjourn the meeting at 5:17 p.m. The motion was carried unanimously, 7-0.

The next meeting will be held on Wednesday, January 24, 2024, at 9:00 a.m. in the Town Council Chambers, 2nd floor, Town Hall, 360 S. County Road.

Respectfully Submitted,

Jeffrey W. Smith, Chairman
ARCHITECTURAL COMMISSION

kmc

TOWN OF PALM BEACH

Town Council Meeting on: January 9, 2024

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 002-2024 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Change Order to Bridges, Marsh & Associates for Renovation to the North Fire Station in the Amount of \$125,000 for a Total Purchase Amount of \$685,000.

Presenter

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

ATTACHMENTS:

- ▣ **Memorandum dated December 21, 2023, from H. Paul Brazil, P..E., Director of Public Works**
- ▣ **Resolution No.002-2024**
- ▣ **Bridges Marsh & Associates Proposal**

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 9, 2024

TO: Mayor and Town Council

VIA: Kirk W. Blouin, Town Manager

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

RE: Approving the Award of a Change Order to Bridges, Marsh & Associates for Renovations to the North Fire Station
Resolution No. 002- 2024

DATE: December 21, 2023

STAFF RECOMMENDATION

Town staff recommends approving Resolution No. 002-2024 for the award of a Change Order to Bridges, Marsh & Associates for renovations to the North Fire Station in the amount of \$125,000 for a total awarded Purchase Order of \$685,000.

GENERAL INFORMATION

Bridges, Marsh & Associates were awarded the RFQ for the North Fire Restoration Project – Architectural, Engineering Design Construction Services at the November 2, 2021, Town Council Meeting.

Pursuant to their agreement, Bridges, Marsh & Associates have requested a Change Order in the amount of \$125,000 to address the following impact to the original scope of the project:

- The original duration of the renovation work/services by the project architect and consultants will be required to be extended.
- More new solutions to address the deficient and nonconforming elements of the building.
- Alternate design/construction solutions given existing unexpected discrepancies in the building elements.
- Further, in-depth participation with consultants, contractors, and building officials, to address current code compliance and life safety criteria.
- Review and administer modifications means, methods and impacts to project cost, to work within the “Guaranteed Maximum Price” (GMP) approved by the Town Council for expenditure on the restoration of the North Fire Station #2.

The issues noted above are articulated in detail at the weekly progress meetings which include Bridges, Marsh & Associates, Hedrick Brothers Construction, Public Works, Town of Palm Beach Fire Department, Information Technology and Procurement & Contract Management.

FUNDING/FISCAL IMPACT

Funding to be assigned under the current available contingency for the Project. No additional funding will be required.

USER DEPARTMENT CONCURRENCE

This item has been reviewed by Procurement and Contracts and is approved as recommended.

TOWN ATTORNEY REVIEW

This format has been utilized by the Town in previous recommendations and was approved by the Town Attorney.

cc: Jason Debrincat, P.E., Assistant Director of Public Works
Patricia Strayer, P.E., Town Engineer
Dean Mealy, Procurement and Contracts Manager

RESOLUTION NO. 002-2024

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING A CHANGE ORDER TO BRIDGES, MARSH & ASSOCIATES FOR RENOVATION TO THE NORTH FIRE STATION IN THE AMOUNT OF \$125,000 FOR A TOTAL PURCHASE AMOUNT OF \$685,000.

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

Section 1. The Town Council of the Town of Palm Beach hereby approves Resolution No. 002-2024, approving a Change Order to Bridges, Marsh & Associates for renovations to the North Fire Station in the amount of \$125,000 for a total Purchase Order amount of \$685,000.

Section 2. The Town Manager is hereby authorized to execute this purchase order on behalf of the Town of Palm Beach for these improvements.

PASSED AND ADOPTED in a regular, adjournment session of the Town Council of the Town of Palm Beach assembled this 9th day of January 2024.

Danielle H. Moore, Mayor

Margaret A. Zeidman, Town Council President

Bobbie D. Lindsay, Town Council President Pro Tem

ATTEST:

Julie Araskog, Town Council Member

Edward A. Cooney, Town Council Member

Kelly Churney, Acting Town Clerk

Lewis S.W. Crampton, Town Council Member

20 December 2023

Mr. Jason Debrincat, P.E.
Assistant Director of Public Works
Town of Palm Beach
951 Okeechobee Rd. Suite A
West Palm Beach, FL. 33401

RE: Renovations to Existing North Fire Station
300 North County Road
Palm Beach, FL. 33480

CONSTRUCTION ADMINISTRATIVE SERVICES

Dear Jason,

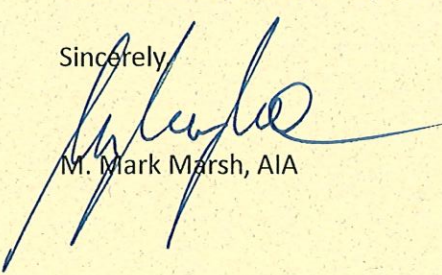
Further to our Agreement with the Town of Palm Beach under resolution No. 014-2023 and Purchase Order amount of \$560,000, we are submitting a Request for Additional Construction Administration Services to the original contract, with the amount of \$125,000.00 (One Hundred and Twenty-Five Thousand dollars).

These additional Services are the result of the following impacts to the original scope of the Project.

- The original duration of the renovation's work/services by the Project Architect and Consultants will be extended.
- More new solutions to address deficient and nonconform elements of the building.
- Alternate design/construction solutions given existing unexpected discrepancies in the building elements.
- Further in-depth participation with Consultants, Contractors, and Building Officials to address current code compliances and Life Safety criteria.
- Review and Administer modifications means, methods and impacts to Project cost, to work within The "Revised Guaranteed Maximum Price" (GMP) approved by the Town Council for expenditure on the Restoration of The North Fire Station #2.

Your assistant with this request would be appreciated.

Sincerely,



M. Mark Marsh, AIA

BRIDGES, MARSH & ASSOC., INC.
chartered architects

TOWN OF PALM BEACH

Town Council Meeting on: January 9, 2024

Section of Agenda

Consent - Other

Agenda Title

Donation Acceptance - PBP&FF

Presenter

Nicholas Caristo, Chief of Police

ATTACHMENTS:

- ▣ **Memorandum dated December 26, 2023, from Nicholas Caristo, Chief of Police**
- ▣ **Attachment A - Donation Policy 1-08-8**

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 9, 2024

To: Mayor and Town Council

Via: Kirk W. Blouin, Town Manager

From: Nicholas Caristo, Chief of Police

Re: Accept Donation of \$653,805 from the Palm Beach Police & Fire Foundation

Date: December 26, 2023

STAFF RECOMMENDATION

Staff recommends the Town Council accept a donation from the Palm Beach Police & Fire Foundation in the amount of \$653,805 in order to fund the purchase of a new Computer Aided Dispatch (CAD) and Records Management System (RMS) for the Town's Public Safety departments as deemed appropriate and necessary by the Chief of Police and the Town Manager in accordance with the Town's Purchasing Procedures.

GENERAL INFORMATION

The Palm Beach Police Department continues to benefit from the generosity of the residents and businesses of the Town of Palm Beach. The Department has received intentions of a donation of \$653,805 from the Palm Beach Police & Fire Foundation. The donor indicated that the funds should be utilized for the acquisition of a new and needed CAD/RMS solution in order to facilitate the goal of creating a modern Public Safety Command Center as deemed appropriate and necessary by the Chief of Police and the Town Manager for the Town's Public Safety departments.

The Police, Fire, and Office of Information Technology departments have been working with Procurement and Contract Management staff for the past 6 months on a selection committee in the furtherance of this goal. A separate agenda item will be presented for recommendation for selection of a vendor.

Per Town Administration Policy No. 1-08-08 (Attachment A), any donation with a value over \$25,000, which is not included in the Town's budget, must be approved by Town Council. A gift agreement, which has been approved by the Town Attorney, will be executed by the donor and Town Manager if the Town Council approves the donation acceptance.

FUNDING/FISCAL IMPACT

The donation will be forwarded to the Finance Department for deposit in the Police Department's donation account. Purchases using donated funds will be made in accordance

with established Procurement Procedures. This donation will fund the acquisition and first year maintenance costs of a new CAD/RMS solution. Subsequent maintenance costs will be budgeted through the Town's budgetary process as is regularly done with our current CAD/RMS solution. Costs for the second and third year of maintenance are currently quoted at \$245,000 per year.

NC:wmr

Attachment

cc: Robert Miracle, Deputy Town Manager
Carolyn Stone, Deputy Town Manager
Darrel Donatto, Fire-Rescue Chief & Director of Emergency Management
Dean Mealy, Procurement and Contract Manager
Andy Jadoo, CIO & Director of Information Technology



TOWN OF PALM BEACH

Administrative Procedures

TOWN DONATIONS PROCEDURES

Procedure No.:.....1-08-8

Effective Date:..... September 25, 2008

Revision to Procedure No.:..... 1-08-5

APPROVED: 
Peter B. Elwell, Town Manager

OBJECTIVE: To formally establish clear procedures for implementation of the donations policy adopted by the Town Council at the January 8, 2008 Town Council meeting.

RESPONSIBILITY: Department directors and/or the Town Manager shall be responsible for the implementation of this procedure. The Finance Director shall be responsible for ensuring completion of those actions required of the Finance Department. Town Council is responsible for approving certain donations as described below.

DEFINITIONS:

Donation:	May refer to either money or items. (Donations of food are exempted from this policy.)
Town budget:	Refers to the Town Council adopted budget, the Equipment Replacement Program, or the approved five-year Capital Improvement Program
Department director:	May also refer to his or her designee
Town Manager:	May also refer to his or her designee

POLICY: Donations with a value over \$25,000, which are not included in the Town budget or the Council-approved Capital Improvement Program (CIP) or Equipment Replacement Fund (ERF), must be individually approved by Town Council. All other donations require administrative approval under the following guidelines:

- Donations of any value, which are of or for items included in the Town budget, are subject to the approval of the department director or Town Manager, as appropriate.

- Donations of money are accepted so long as items bought with the donated money follow the same guidelines as those of a donated item.
- Donations of items with a value of \$25,000 or less, which are not included in the Town budget, may be approved by the department director if there will be no future maintenance or replacement cost, but are subject to the approval of the Town Manager if there could or would be future maintenance or replacement cost.

The department director or Town Manager may seek Town Council approval of any donation which they determine should be subject to Town Council review.

PROCEDURE:

- Donations of cash or gift cards will not be accepted, with the exception of gift certificates or cards donated to the Recreation Department for the use as program prizes. Said certificates or cards will be subject to appropriate cash handling and tracking procedures to insure accountability.
- Departments must follow the Town's formal written purchasing procedures when using donation funding to buy an item.
- If the Town receives a donation for an item in the ERF that is not scheduled for purchase until a future date, the department shall use the donation when the next available purchase for such item occurs in the ERF. Acceleration of such purchases is allowed only upon the advance written approval of the Town Manager.
- All donations shall be reported to the Finance Department for processing and recording.
- The Finance Department will administer a central database, which shall record the date of every donation, name and address of donor, purpose of the donation and the amount of the donation. Departments should submit such information to the Finance Department the same business day the donation is received.

CONSIDERATIONS:

When determining whether to accept a donation, the department director and/or Town Manager should consider whether the public, professional or community benefit is clear. The Town should also

avoid any impression that a private entity might receive a favor, naming rights, or any other quid pro quo consideration from the Town or a Town official in exchange for the donation.

TOWN OF PALM BEACH

Town Council Meeting on: January 9, 2024

Section of Agenda

Board/Commission Annual Report

Agenda Title

Annual Report of the Recreation Advisory Commission

Presenter

Grier Pressly, Chair

ATTACHMENTS:

- ▣ **Recreation Advisory Commission Annual Report**

TOWN OF PALM BEACH

Information for Town Council Meeting on January 9, 2024

To: Mayor and Town Council

Via: Kirk W. Blouin, Town Manager

From: Grier Pressly, Recreation Advisory Commission Chairperson

Re: Recreation Advisory Commission Annual Presentation

Date: January 9, 2024

GENERAL INFORMATION

The contents of the annual Recreation Advisory Commission (RAC) report include the following:

Commission Membership/Meetings

Par 3 Golf Course

Tennis Operations

Morton and Barbara Mandel Recreation Center

Commission Membership/Meetings

The RAC is comprised of seven regular members. Each member serves a three-year term, with a chairperson and vice-chairperson selected as necessary. The Commission held three regular meetings in the calendar year 2023 (January, April, and October). The current Commission membership is as follows:

Commissioner	Position	Term Expires
Grier Pressly	Chair	4/25
Peter Harris	Vice-Chair	4/24
Millie Dayton	Regular Member	4/25
Henry 'Budge' Jamison	Regular Member	4/25
David Missner	Regular Member	4/26
Devon Roush	Regular Member	4/26
Susan Watts	Regular Member	4/24

Mrs. Devon Roush was the only new appointment to the Commission in 2023. Mr. Missner's original appointment was in July 2022, to complete the term vacated by Ms. Schonwald Vila.

Par 3 Golf Course

In the face of challenging weather conditions marked by intense heat and persistent rain during the summer and early fall, the golf course persevered and thrived, recording an unparalleled 55,481 rounds in FY23. This remarkable achievement was complimented by robust merchandise sales that reached an all-time high of \$878k. Thanks to these combined efforts and the impeccable course conditions maintained throughout the year, staff proudly announce that they've set a new benchmark by achieving a record revenue of \$5.09 million in FY23! By comparison, in FY21, the record was \$3.6M.

Another notable highlight is the nomination of Tony Chateauvert for the National PGA Merchandiser of the Year Award. This recognition can be attributed significantly to the diligent efforts of Assistant Golf Manager, Sabrina Gordon. Sabrina's expertise in curating and designing the pro shop's collection has been instrumental. Her keen eye for apparel and accessories has resonated well with both residents and visitors, making the shop a favorite destination for many.

On the instructional front, the program experienced its most active year to date. The daily golf clinics and lessons, known for their affordability and engaging nature, have been a hit among enthusiasts.

A huge thank you to Superintendent Tim Campbell and his staff for a successful year of course maintenance and clubhouse projects.

Restaurant

Staff negotiated a 10-year extension with Al Fresco that runs through June of 2033. The restaurant continues to thrive, with another sales record in FY23. This impressive achievement attests to the quality of the restaurant's food and service, its reputation for excellence, not to mention the scenic views.

Some notable improvements to the golf operations this year:

- In September the clubhouse exterior received a fresh coat of paint along with the interior front portion of the clubhouse
- All AC units at the clubhouse were replaced in late September
- The parking lot expansion was completed on the northwest side of the lot in October, additional landscaping is being added to enhance the separation between the lot and the tee box on #9
- The cart path on #17 was rerouted to improve the safety and aesthetics of the course
- Harry Bowers redesigned the putting green and it was nearly doubled in size, grow-in of the green should be done in early January

- Staff continue to take advantage of earned marketing opportunities on collaborations with outlets such as the Golf Channel, in addition the Par 3's Instagram (palmbeachpar3) is up to over 4,800 followers, with professional shots added weekly
- The course was aerified three times this summer in addition to dry-jetting
- Concrete work was done between the parking lot and the driving range to help prevent runoff of crushed rock into the parking lot and other high erosion spots

Seaview and Phipps Ocean Park Tennis Centers

The tennis centers are in high demand, especially in the morning. Tennis professionals, led by Head Pro Dejan Minic, USPTA/PTR, and his dedicated team, have fully booked schedules on most days.

The Seaview Tennis Court recently underwent a significant lighting upgrade. The transition to LED lighting in early June has not only enhanced the quality of light but also improved energy efficiency. Meanwhile, the project aimed at renovating the courts and fencing at Seaview encountered delays. These were attributed to material shortages and concerns over potential disruptions to team tennis. However, the project is expected to commence in early June. To ensure the Seaview Courts remain in top condition for the season, the staff undertook commendable resurfacing work late this summer.

Some additional improvements to the tennis operations this year:

- Both pro-shops received a refresh and expanded lines of apparel with a new logo introduced, merchandise shop sales more than doubled year over year
- A cabinet and ice machine was installed in the Pro Shop at Phipps Ocean Park Tennis Center in December
- Refreshed look for the restrooms at Phipps, complete with a new coat of paint and updated mirrors
- Shade canopies have been added to courts 6 & 7 at Seaview Park Tennis Center
- Staying on top of routine items to limit court downtime at Phipps and Seaview:
 - adding clay, replacing lines, net post maintenance, net repairs, windscreen maintenance, edges being scraped and re-conditioned, and gate repairs
 - irrigation enhancements, landscape beautification
- A contractor was hired to take care of daily court maintenance, this will free up existing staff to work on more projects and maintenance items throughout Seaview Park and all Recreation facilities
- The pickleball lines were removed from Seaview's Court 7, following a decision by the Recreation Advisory Commission in April
- New scoreboards at Phipps and Seaview were added to each court

Morton and Barbara Mandel Recreation Center

Programming

Revenue for the Mandel Recreation Center broke the record set last year by 12.7%, with total revenue exceeding \$926k. The Mandel Recreation Center offered over 200 programs through

FY23. The ever-popular After School Program welcomed 30 participants each day. Camp Palm Beach was at full capacity as 75 kids were welcomed each week of the eight-week camp. The After School Program incorporated several new outreach programs into the daily schedule of activities including What's Cooking Kids, Cox Science Center Portable Planetarium, Get Fit 4 Kidz with a mobile escape room, as well as safe archery and axe throwing. Participants continue to learn about finance and economics with the return of the Dreyfoos Economics Club that comes to teach the After School Program kids on a regular basis.

In the quest to enhance operational efficiency, staff introduced the ProCare App. This application was pivotal in streamlining attendance management and simplifying the sign-in/out procedures. Its success during the summer camp has led to its adoption for all Mandel programs.

The sports offerings witnessed enthusiastic participation. Children actively participated in programs like Story Time Soccer, Perseverance Basketball Camp, and RUSH Soccer. These sports not only keep the kids active but also instill in them the values of teamwork and perseverance. RUSH Soccer is in its second season and has been so successful that it expanded the program to four age groups, doubling its numbers. This program complements our recreation league, where participants hone their skills working up to the competitive league.

Some highlights from preschool and youth enrichment and sports programs include the new What's Cooking Kids where participants learn cooking skills, kitchen safety, and cleanliness as well as how to make healthy food choices. Some programs are so popular that mini-sessions have been added to the schedule to accommodate demand. Youth Flag Football and Lacrosse continue to be popular. Adult programs include language classes, Mah Jongg, and the newly added Ballroom Dance.

Fitness

Personal training has reached unprecedented popularity at the fitness center with staff conducting over 1,100 sessions in FY23, the most in any year. Group Fitness participation also reached an all-time high in the new building during FY23. The fitness center sold a record 357 memberships, with annual memberships continuing to be the most popular choice for members, most likely due to its affordability and the inclusion of complimentary spa-like amenities. The complimentary amenities with the annual membership include the use of the Somadome, Compression Therapy, and the InBody.

Café

The Seaview Café opened in May! See owner-operator Monika Meic for a fresh-pressed espresso or an alluring fresh green smoothie. There are several fresh food options as well, and the menu continues to expand. If you have a cheat day saved up, stop by for the irresistible Italian-style gelato produced by talented local artisans.

Seaview Park

The playground is one of the busiest outdoor properties per square foot on the island! Families enjoy the unique offerings and the shade trees that keep it cooler year-round.

The dominant turf, Bermuda Latitude, is growing and held up well in the extreme summer weather. Staff applied various items over the summer (as much organic as possible) to offset the effects of high temperatures and the extremely wet South Florida summer. The overall health of the turf improved dramatically from late spring to early fall. Mole crickets wreaked havoc on portions of the front lawn, but staff have addressed the issue and placed sod during the second week of October. Staff continues to enhance the outdoor facilities with continued turf maintenance improvement, landscape maintenance, and minor building maintenance.

Some additional highlights from 2023:

- Facility rentals were at an all-time high in FY23 and are already off to a strong start in FY24 as residents are in awe of seeing firsthand the potential of the Mandel Recreation Center spaces. The Smith Family Fieldhouse, within the Mandel Recreation Center, hosted a number of private and community events, including The Palm Beach Civic Association's Welcome Back Community Forum on November 7th
- Marketing and communication efforts of the department are continuing to grow, with the weekly RecConnect leading the way reaching over 2,600 subscribers. The emails have seen a steady increase in open rates, currently 54%, significantly above the 17-21% average across all industries
- Instagram followers (townofpalmbeachrecreation) are up to 2,464 and counting, resulting in more direct communication with the community
- The Torque Tank M4 (modern day sled on wheels) was added to the multipurpose room to enhance the personal training offerings
- A huge map of Palm Beach island was added to the hallway leading to the fieldhouse at the Mandel, it has been well received with residents and visitors often reviewing it
- More robust, portable pickleball nets were added for both the indoor and outdoor courts
- A new commercial washer and dryer was installed at the Recreation Center
- Speakers in the fieldhouse were blown and were replaced under warranty in June
- The proposed pergola, which received the full support of the RAC in January, is awaiting ARCOM approval
- All exterior hard ground and vertical surfaces were pressure washed in early September.
- Staff put on the annual Spring Celebration that nearly 250 residents enjoyed as 4,000 candy-filled eggs were scattered across the Oakley Gage Debbs field
- Staff put on the Mandel's 3rd Birthday Bash on January 21st, 2023 with nearly 300 residents in attendance throughout the event that included steel drums, games, a bounce house, and an appearance by the "Frozen" characters
- The Halloween Happenings event had great participation, with over 250 residents
- Staff continue to host movies on the lawn during the cooler months, with the next one scheduled for January 26th with the showing of The Polar Express
- For the third year in a row a \$10,000 gift was received from the Friends of Recreation to cover up to \$500 for each employee who registered their child for a week of summer camp. This was well received by employees and the funds were fully exhausted
- The Friends of Recreation have also pledged \$25,000 towards the proposed pergola on the southwest corner of the Mandel Recreation Center
- The Palm Beach County City Managers hosted their monthly meeting at the Mandel in September, with 30 representatives from city managers' offices across the county

- Please mark your calendars, the Mandel's 4th Birthday Celebration will be held Saturday, January 20th on the front lawn, enjoy brunch bites and family-friendly games and music

Conclusion

Overall, the members of the RAC, in conjunction with the Department, had an exceptionally fruitful year and are looking forward to the possibilities that 2024 holds. Far from being complacent, we are just beginning the journey towards even greater achievements.

Year-by-year revenue dashboard by division:

Year	2018	2019	2020	2021	2022	2023
Tennis	\$ 229,140	\$ 220,338	\$ 245,471	\$ 348,178	\$ 426,063	\$ 480,097
Recreation	\$ 305,340	\$ 157,199	\$ 230,911	\$ 565,206	\$ 821,079	\$ 926,179
Golf	\$ 2,245,084	\$ 2,455,267	\$ 2,288,355	\$ 3,651,435	\$ 4,342,191	\$ 5,096,539

cc: Recreation Advisory Commission
Carolyn Stone, Assistant Town Manager
Mark Bresnahan, Director of Recreation
Rance Gaede, Assistant Director of Recreation
Tony Chateauvert, Golf Manager
Ashley Kelly, Office Manager

TOWN OF PALM BEACH

Town Council Meeting on: January 9, 2024

Section of Agenda

Regular Agenda - Old Business

Agenda Title

Discussion Regarding Town Council Meeting Minutes

Presenter

Margaret A. Zeidman, Town Council President

ATTACHMENTS:

- ▣ **Memorandum Dated December 29, 2023, from Kelly Churney, Acting Town Clerk**
- ▣ **Exhibit A - Town Council**
- ▣ **Exhibit A - Town Council Development Review**
- ▣ **Exhibit B - Town Council**
- ▣ **Exhibit B - Town Council Development Review**
- ▣ **Exhibit C - Town Council**
- ▣ **Exhibit C - Town Council Development Review**
- ▣ **Backup Provided at November 14, 2023 Town Council Meeting**

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 9, 2023

To: Mayor and Town Council

Via: Kirk W. Blouin, Town Manager

Via: Carolyn Stone, Deputy Town Manager

Via: Jess Savidge, Administrative Manager

From: Kelly Churney, Acting Town Clerk

Re: Discussion Regarding Town Council Meeting Minutes

Date: December 29, 2023

At the November 14, 2023, Town Council Meeting, the Town Council had a lengthy discussion about which type of minutes best represented the Town Council meetings. Staff presented several minute options for consideration. The Town Council directed staff to return to the January 9, 2024, meeting with three options of minutes and associated costs for review. These options included the lengthy summary minutes currently provided and short- and medium-length summary minutes, with the topics timestamped for quick access.

Staff calculated the hours of preparation and cost estimates for the lengthy summary minutes provided in 2023. The data is shown below:

2023 Town Council Meetings	166 hours	Additional staff time (Hrs.)	Total staff time (Hrs.)	Staff minutes cost estimate (\$)	Vendor minutes estimate (\$)	Minutes production total estimate (\$)
	Current	80-100	246-266	\$4,000-\$5,000	\$12,000 - \$16,000	\$16,000-\$21,000
	In-house	415-490	581-656	\$21,000-\$25,000	0	\$21,000-\$25,000

Staff prepared the accompanying exhibits to provide examples of the three different minutes to enhance the discussion.

Exhibit A has been submitted as an example of shorter-length summary minutes with timestamps.

Exhibit B has been submitted as an example of medium-length summary minutes with timestamps.

Exhibit C has been submitted as an example of the currently provided lengthy summary minutes.

Staff has also provided last month's backup for your use as a resource.



TOWN OF PALM BEACH

MINUTES OF THE TOWN COUNCIL MEETING HELD ON TUESDAY, DECEMBER 12, 2023

I. CALL TO ORDER AND ROLL CALL (3:25)

The Town Council Meeting was called to order at 9:30 a.m. On roll call, all council members were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE (4:05)

Led by Deputy Town Clerk Gayle-Gordon and Council President Zeidman.

III. MODIFICATIONS TO THE AGENDA (4:44)

The following modifications were made to the agenda:

- 1) Item No. X.C.1 Discussion Regarding Traffic Issues and Presentation of Mitigation Plans

TIME CERTAIN: 11:30 AM

Summary added to the backup.

- 2) Item No. X.C.2 Discussion Regarding Agreement for Legal Fees with Jones, Foster
Addition of RESOLUTION NO. 157-2023

- 3) Withdrawal of ORDINANCE NO. 023-2023

IV. APPROVAL OF AGENDA (6:43)

Motion was made by Council Member Araskog and seconded by Council Member Crampton to approve the Agenda, as amended. On roll call, the Motion passed unanimously.

V. **RECOGNITIONS (7:09)**

- A. Recognition of Zachary Shipley for Service on the Underground Utilities Task Force
Danielle H. Moore, Mayor
- B. Recognition of John B. McGowan, Jr. for Service on the Underground Utilities Task Force
Danielle H. Moore, Mayor
- C. Recognition of Leslie Shaw for Service on the Underground Utilities Task Force
Danielle H. Moore, Mayor

VI. **COMMENTS OF MAYOR DANIELLE H. MOORE (11:07)**

Mayor Moore thanked the Police Department for putting on their recent Safety Day event, recognized employee milestones with the Town, and recognized the retirement of Mr. John “Skip” Randolph, Town Attorney.

Please see [this link](#) for direct access to a recording of Mayor Moore’s full comments.

VII. **COMMENTS OF TOWN COUNCIL MEMBERS (17:36)**

Each council member thanked Mr. Randolph for his service to the town.

Council President Pro Tem Lindsay encouraged everyone to attend a presentation on Monday, February 5, 2024, at 2:00 p.m. by Dr. Ray Dorsey and Dr. Bruce Lanphear on toxic chemicals, pesticides, and their impact on children’s health. She said that the presentations would also be live-streamed and recorded.

Council Member Crampton discussed a letter in the November 26, 2023, issue of the Shiny Sheet written by former Mayor Gail Coniglio and ten other women. He said that he believed the town was at an inflection point and everyone should be more protective of the decisions being made for the town.

Council Member Araskog agreed with Council Member Crampton’s comments about the letter he read and apologized for her comments regarding Mrs. Ailes at a recent meeting.

Council President Zeidman mentioned the upcoming text amendments, and she requested education be provided relative to the procedure. She also said the Town Council members could let staff know if they wanted to see the Corradino Traffic Study draft.

Please see [this link](#) for direct access to a recording of the council’s full comments.

VIII. **COMMUNICATIONS FROM CITIZENS – 3-MINUTE LIMIT, PLEASE (36:18)**

Richard Sammons, a member of ARCOM and resident of 455 Worth Avenue, retroactively declared a conflict of interest due to his prior subcontractor work for the

Charette in February. He highlighted the need for balance between zoning, the RB, and development restrictions in order to maintain the town's character. Council President Zeidman praised ARCOM's work on the zoning code but expressed concern about commercial projects, fearing they could become too large and monolithic or could become regional destinations. She said that the council would review the list of Special Exception Uses. Diane Buhler from Friends of Palm Beach discussed environmental issues, including an increase in medical waste on the beach and the installation of bucket stands by condominiums. Council Member Crampton addressed dilapidated billboards on the southern bridge, advocating for their removal, and Council Member Cooney mentioned that he had been asked to serve on the aesthetics committee for the bridge. Council Member Araskog thanked the Police and Fire Foundation for Public Safety Day, urging alerts for future events. Mayor Moore recognized Doug Evans from the Palm Beach Chamber of Commerce and said that the Town's Employee of the Year would be announced on December 18, 2023.

Please see [this link](#) for direct access to a recording of the public's full comments.

IX. [APPROVAL OF CONSENT AGENDA \(47:51\)](#)

Motion was made by Council Member Cooney and seconded by Council President Pro Tem Lindsay to approve the Consent Agenda, as amended. On roll call, the Motion passed unanimously.

A. MINUTES

1. Town Council Meeting Minutes
Kelly Churney, Acting Town Clerk
 - a. November 14, 2023, Town Council Meeting Minutes
 - b. November 15, 2023, Town Council Development Review Meeting Minutes
2. Approval of Major Matters Considered by the Architectural Review Commission at its Meeting of November 20, 2023
Wayne Bergman, Director of Planning, Zoning and Building

B. RESOLUTIONS

1. RESOLUTION NO. 151-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, approving an award to Coastal Protection Engineering LLC in a not-to-exceed amount of \$278,515 for professional services related to federal permitting of the Mid-Town Beach Nourishment Project.
Dean Mealy, Procurement and Contract Manager
2. RESOLUTION NO. 152-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, approving a retroactive payment authorization to the Municipal Public Safety Communications Consortium of Palm Beach County, LLC for annual membership dues in the amount of \$124,777.15.
Dean Mealy, Procurement and Contract Manager

3. RESOLUTION NO. 153-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, approving Police and Fire Departments radio replacement with Motorola Solutions utilizing the NASPO Value Point Cooperative Contract in the amount of \$1,479,388.91 for police radios, \$690,369.91 for fire radios and \$972,613 for dispatch consoles for a total price of \$3,092,371.82 which includes a \$50,000 trade-in allowance. Payment milestones will be \$2,061,581.21 upon issuance of contract and \$1,030,791.61 at final system acceptance no earlier than October 1, 2024.
*Dean Mealy, Procurement and Contract Manager – **Pulled and Heard as Item No. X.A.1***

4. RESOLUTION NO. 154-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, approving a purchase order to Kelly Tractor Company in the amount of \$357,400 and establishing a project budget of \$375,500 for the acquisition of a replacement Landfill Bulldozer.
Dean Mealy, Procurement and Contract Manager

5. RESOLUTION NO. 155-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, approving a purchase order to Kimley-Horn and Associates, Inc. for on-call consulting, permit compliance, sampling, and monitoring at the Skees Road and Okeechobee Boulevard Landfill Facilities in the annual amount of \$143,452 and establishing a project budget of \$160,000.
*Dean Mealy, Procurement and Contract Manager – **Pulled and Heard as Item No. X.A.2***

C. OTHER

1. Donation Acceptance from the Police and Fire Foundation
*Darrel Donatto, Fire Rescue Chief – **Pulled and Heard as Item No. X.A.3***

2. West Palm Beach Mobility Coalition
Bob Miracle, Deputy Town Manager -Finance and Administration

3. Permission to Close Country Club Road for Annual Inspection of the Delta-8 Stormwater Station and Permission to Close North Lake Way for Annual Inspection of Sanitary Sewer Stations Echo-1 & Echo-2
H. Paul Brazil, P.E., Director of Public Works

4. Recommending Dissolving the Undergrounding Utilities Task Force
H. Paul Brazil, P.E., Director of Public Works

5. Authorization for 160 Royal Palm Way - Use of Right-of-Way During Season
*H. Paul Brazil, P.E., Director of Public Works – **Pulled and Heard as Item No. X.A.4***

X. REGULAR AGENDA

A. Matters Pulled from Consent Agenda: If needed

1. [RESOLUTION NO. 153-2023 \(49:45\)](#) A Resolution of the Town Council of

the Town of Palm Beach, Palm Beach County, Florida, approving Police and Fire Departments radio replacement with Motorola Solutions utilizing the NASPO Value Point Cooperative Contract in the amount of \$1,479,388.91 for police radios, \$690,369.91 for fire radios and \$972,613 for dispatch consoles for a total price of \$3,092,371.82 which includes a \$50,000 trade-in allowance. Payment milestones will be \$2,061,581.21 upon issuance of contract and \$1,030,791.61 at final system acceptance no earlier than October 1, 2024.

Dean Mealy, Procurement and Contract Manager

Council President Pro Tem Lindsay sought an explanation for the cost of the purchase. Mr. Blouin clarified that the request involves a 5-year contract for Police and Fire radios and dispatch consoles as part of the town's membership with the Municipal Public Safety Communications Consortium of Palm Beach County, Inc. (MPSCC), a relationship dating back to 2006. Council Member Araskog raised concerns about verifications and existing fiber connectivity, inquiring about potential additional costs outlined in the contract. Director of Information Technology, Andy Jadoo, assured the council that current systems function without issues, and any extra expenses would be assessed by consultants once operational necessities are determined. Council Member Araskog suggested that the item be deferred, but Bob Miracle emphasized the staff's desire for approval to sign the contract by the end of the calendar year. Captain William Rothrock, Police Department, reported successful recent testing of the Motorola radios, and expressed confidence in avoiding unforeseen costs, with Mr. Blouin noting that Palm Beach County also uses this system.

Motion was made by Council President Pro Tem Lindsay and seconded by Council Member Crampton to approve Resolution No. 153-2023.

On roll call, the Motion passed unanimously.

This issue was discussed for 19 minutes. Please see [this link](#) for direct access to a recording of the full discussion.

2. [RESOLUTION NO. 155-2023 \(1:07:56\)](#) A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, approving a purchase order to Kimley-Horn and Associates, Inc. for on-call consulting, permit compliance, sampling, and monitoring at the Skees Road and Okeechobee Boulevard Landfill Facilities in the annual amount of \$143,452 and establishing a project budget of \$160,000.

Dean Mealy, Procurement and Contract Manager

Council Member Crampton asked for an update on the project. Mr. Blouin said there would be additional information on a future agenda. He said it would be costly for them to maintain the full bond, and the town staff believes it to be reasonable and fair to reduce the bond. That will be a Town Council decision, and staff will work with the Town Attorney to develop language for presentation to the council.

At this time, Council Member Araskog requested a re-consideration of the

Consent Agenda.

Motion was made by Council Member Araskog and seconded by Council Member Crampton to re-consider the Consent Agenda. On roll call, the Motion passed unanimously.

Motion was made by Council Member Araskog and seconded by Council Member Crampton to pull item no. IX.C.5. from the Consent Agenda. On roll call, the Motion passed unanimously.

Motion was made by Council Member Crampton and seconded by Council Member Cooney to approve Resolution No. 155-2023. On roll call, the Motion passed unanimously.

This issue was discussed for 5 minutes. Please see [this link](#) for direct access to a recording of the full discussion.

3. [Donation Acceptance from the Police and Fire Foundation \(1:13:59\)](#)
Darrel Donatto, Fire Rescue Chief

Sean Baker, Assistant Fire Chief, announced that donations from the Police and Fire Foundation would support Palm Beach's AED program, enhancing community safety with strategically placed units and training for local businesses and residents. Council President Zeidman confirmed that the AED units would be available for purchase. Council Member Cooney confirmed that the AED units will be placed in both public and private spaces, requesting that the Town Council be allowed to review the design for freestanding units before their installation.

Motion was made by Council Member Cooney and seconded by Council Member Araskog to approve acceptance of the donation from the Police and Fire Foundation. On roll call, the Motion passed unanimously.

This issue was discussed for 8 minutes. Please see [this link](#) for direct access to a recording of the full discussion.

4. [Authorization for 160 Royal Palm Way – Use of Right-of-Way During Season \(1:20:10\)](#)
H. Paul Brazil, P.E., Director of Public Works

Council Member Araskog asked to hear from the Police Department about the loss of seven metered spaces. Mr. Brazil responded that this would be like Palm Beach Hotel where there is scaffolding and a work zone inside the scaffolding and said pedestrians would walk around the scaffolding.

Motion was made by Council Member Cooney and seconded by Council Member Araskog to authorize the use of right-of-way during season for 160 Royal Palm Way. On roll call, the Motion passed unanimously.

This issue was discussed for 2 minutes. Please see [this link](#) for direct access to

a recording of the full discussion.

B. Old Business

1. [Town-Wide Undergrounding Project - Review of Project and Dashboard, Summary of Project Status \(1:22:30\)](#)

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

Patricia Strayer from Public Works provided an update on the undergrounding project. Phase III will proceed with conversions, and Phase V north and south will involve energizing the underground network, with conversions yet to start. Phase VI north has exceeded 50 percent completion for construction and drilling. Phase IV south may impact residents as construction progresses. Florida Power and Light (FPL) will exchange the streetlights without delay or extra cost. Council Member Cooney inquired about lane closures, and Ms. Strayer explained that some will be needed to conduct drilling. Reflectors will be installed after the permanent striping. Council Member Araskog raised concerns about the progress of easements, urging staff to check areas with old systems after the fire on El Vedado Road.

This issue was discussed for 10 minutes. Please see [this link](#) for direct access to a recording of the full discussion.

2. [RESOLUTION NO. 156-2023 \(1:30:00\)](#) A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, approving additional funding to Kimley-Horn and Associates, LLC in the amount of \$50,000 for professional engineering on an as-needed basis related to the Water Supply Feasibility Study for a total award amount of \$666,380.

Dean Mealy, Procurement and Contract Manager

Mr. Brazil said staff has been working with Kimley-Horn on this water supply feasibility study for almost four (4) years. He explained the selection process and their progress so far. To secure the assistance of Kimley-Horn in the future, an additional Change Order would have to be approved in the amount of \$50,000.

Motion was made by Council Member Cooney and seconded by Council Member Crampton to approve Resolution No. 156-2023. On roll call, the Motion passed unanimously.

This issue was discussed for 2 minutes. Please see [this link](#) for direct access to a recording of the full discussion.

3. [Updated Comprehensive Parking Plan \(1:32:40\)](#)

Lew Crampton, Town Council Member

Council Member Crampton announced an amicable parting between the ride-share service Rove and the town as the service moves to another area. Lieutenant Paul Alber from the Police Department provided updates on the parking initiatives and answered questions from the council. He highlighted increases in revenue on

specific blocks, indicating successful implementation of the paid parking. The council also discussed how data can be collected from the program and the potential for valet parking on Worth Avenue.

This issue was discussed for 25 minutes. Please see [this link](#) for direct access to a recording of the full discussion.

4. [Landscape and Lawn Maintenance Request Earlier Start Time at 8:30 AM on Weekdays. \(1:58:55\)](#)

Margaret A. Zeidman, Town Council President

Colin Goldsmith, 2116 Bellcrest Court, Royal Palm Beach, FL, Botanica Landscaping discussed challenges with the 9:00 a.m. start time for landscaping services and proposed an earlier start to enhance efficiency and ease morning congestion. Council President Zeidman expressed openness to considering an earlier start time. Council Member Araskog stated that the work must be quiet, citing the town's median age as a factor for the 9:00 a.m. start. Council Member Crampton supported flexibility and suggested the Ordinances, Rules & Standards Committee (ORS) examine adjusting the start time. Council President Pro Tem Lindsay, concerned about rule compliance, suggested a potential adjustment only on the island's south end due to noisy equipment. Mayor Moore and Council Member Cooney were open to returning the request to ORS, acknowledging the challenge of enforcing rules. Council President Zeidman was open to a half-hour adjustment, confirming from Mr. Goldsmith that it may result in trucks getting off of the island earlier, but was not ready to decide. Council Member Crampton inquired about the potential involvement of an association of landscape professionals and said that peer intervention and traffic mitigation would motivate the Town Council to consider the requested change.

The consensus of the Town Council was to direct Mr. Goldsmith to return to next month's council meeting with confirmation of an Association of Landscape Professionals and a summary of actions to be accomplished by the association's members which would benefit the residents of the town.

Council Member Araskog asked to hear from the Police Department about morning traffic. Mayor Moore noted the timing of pick up and drop off at the day school and the public school.

This issue was discussed for 23 minutes. Please see [this link](#) for direct access to a recording of the full discussion.

C. New Business

1. [Discussion Regarding Traffic Issues and Presentation of Mitigation Plans \(2:22:32\)](#)

Margaret A. Zeidman, Town Council President / Nicholas Caristo, Chief of Police

TIME CERTAIN: 11:30 AM

Council President Zeidman reported on a meeting with Mar-a-Lago officials, highlighting planned changes to the Declaration of Use such as limiting event hours and requiring the use of the Bath & Tennis Club Parking Lot. Chief Caristo discussed the compromise reached with the Mar-a-Lago, updates on the effort to delay bridge openings during peak hours, and several traffic mitigation strategies under discussion. Public comments included concerns about traffic and communication with residents regarding changes, particularly on Barton Avenue. Council President Pro Tem Lindsay expressed concern about taking Barton out of the plan, discussed a potential earlier start time for construction in order to get workers off of the island earlier, and suggested tweaks to the Breakers traffic lights on South County Road to optimize traffic flow. Council Member Cooney believed that the council would likely evaluate the effectiveness of the proposed traffic management plan over a full season.

This issue was discussed for 59 minutes. Please see [this link](#) for direct access to a recording of the full discussion.

2. [Discussion Regarding Agreement for Legal Fees with Jones, Foster \(3:30:48\)](#)

RESOLUTION NO. 157-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Memorandum of Understanding and Agreement and Fee Agreement with Jones Foster, P.A.; Authorizing the Town Council President to Execute the Memorandum of Understanding and Agreement; Authorizing the Town Manager to Execute the Fee Agreement; Providing an Effective Date.

Margaret A. Zeidman, Town Council President

Council President Pro Tem Lindsay inquired about the duration of the proposal, and Ms. O'Connor suggested incorporating CPI adjustments into the agreement with guidance from Mr. Miracle. Council President Zeidman asked Ms. O'Connor to explain her plan for educating her associates on various boards and commissions. Ms. O'Connor identified two associates who work for other municipalities and mentioned accompanying them to meetings over the next few months. Anita Seltzer, 44 Cocoanut Row, expressed concerns about information transfer between boards/commissions. Mayor Moore suggested that, as a caveat to the contract, Ms. O'Connor should attend relevant ARCOM or Landmarks Preservation Commission meetings for commercial projects, which Ms. O'Connor agreed to.

Motion was made by Council Member Cooney and seconded by Council Member Crampton to approve Resolution No. 157-2023, and the agreement regarding legal fees being set for the next two (2) years after which returning to the Town Council for CPI increase. On roll call, the Motion passed 4-0 with Council Member Araskog absent.

This issue was discussed for 9 minutes. Please see [this link](#) for direct access to a recording of the full discussion.

XI. ORDINANCES

A. Second Reading

1. Proposed Ordinance to Amend Chapter 46 of the Town Code Relative to Fire Prevention and Protection

ORDINANCE NO. 023-2023 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 46, Fire Prevention and Protection in Accordance with Florida Statute 633.202 and 633.208 the "Florida Fire Prevention Code" Adopted by the State of Florida Fire Marshall In Chapter 69A-60 Of the Florida Administrative Code with Local Amendments, National Fire Protection Association National Fire Code - N.F.P.A. 1, Florida Current Edition; And National Fire Protection Association Life Safety Code - N.F.P.A. 01, Florida Current Edition; Including Amendments To Sections 46-32, 46-33, 46-36, 46-66, 46-68, 46-69, 46-70, 46- 71, 46-72, 46-73, 46-74, 46-75, 46-76, 46-77, 46-78, 46-80, And 46-82 All As Provided In Exhibit A Attached; Providing For Severability; Repealing All Ordinances Or Parts Of Ordinances In Conflict Herewith; Providing For Codification; And Providing For An Effective Date.

Darrel Donatto, Fire Rescue Chief

This item was withdrawn.

B. First Reading

1. [Proposed Ordinance to Amend the Town's Equipment Replacement Fund \(3:21:16\)](#)

ORDINANCE NO. 027-2023 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, providing for an Amendment to the Town's Equipment Replacement Fund Adopted for the Fiscal Year Commencing October 1, 2023, and Providing an Effective Date.

Bob Miracle, Deputy Town Manager - Finance and Administration

Mr. Miracle explained the item and advised that this budget amendment would allow for the first installment payment for the police and fire radio equipment. Council President Zeidman said that in February, there would be a tax and finance meeting to look at reserves with Mr. Miracle's guidance.

Motion was made by Council Member Crampton and seconded by Council President Pro Tem Lindsay to approve Ordinance No. 027-2023 on First Reading. On roll call, the Motion passed 4-0 with Council Member Araskog absent.

This issue was discussed for 9 minutes. Please see [this link](#) for direct access to a recording of the full discussion.

XII. [ANY OTHER MATTERS \(3:46:08\)](#)

XIII. ADJOURNMENT (3:46:49)

Motion was made by Council Member Cooney and seconded by Council Member Crampton to adjourn the Town Council Meeting of December 12, 2023, at 3:12 PM. On roll call, the Motion 4-0 with Council Member Araskog absent.

APPROVED:

Margaret A. Zeidman, Town Council President

ATTEST:

Pat Gayle-Gordon, Deputy Town Clerk

Date



TOWN OF PALM BEACH

Minutes of the Development Review

Town Council Meeting

Held on December 13, 2023

I. [CALL TO ORDER AND ROLL CALL \(1:20\)](#)

The meeting was called to order on December 13, 2023, at 9:31 a.m., with all elected officials present.

II. [INVOCATION AND PLEDGE OF ALLEGIANCE \(1:36\)](#)

Led by the Acting Town Clerk and Council President Zeidman.

III. [COMMENTS OF MAYOR DANIELLE H. MOORE \(2:24\)](#)

None

IV. [COMMENTS OF TOWN COUNCIL MEMBERS \(2:45\)](#)

Council President Zeidman acknowledged the Preservation Foundation of Palm Beach and introduced Mackey Reed, the new Director of Public Affairs. Amanda Skier, President & CEO of the Foundation, announced that the Executive Committee has established the Director of Public Affairs role to keep informed on Planning and Zoning decisions, ARCOM commercial projects, and Town Council matters. She stated that Aimee Sunny will now serve as the Director of Preservation and Planning. She will focus on the Landmarks Commission but will also advise on other issues as needed, collaborating closely with Mackey Reed.

Please see [this link](#) for direct access to a recording of the council's full comments.

V. [COMMUNICATIONS FROM CITIZENS – 3-MINUTE LIMIT, PLEASE \(7:07\)](#)

David Kelso, 255 Monterey Road, raised concerns about a construction violation at 249 Monterey Road that should have been addressed by Code Enforcement. Despite violations, no sanctions or fines were imposed. Council President Zeidman defended the Town Council's understanding of the situation, acknowledged flaws in the code, and emphasized efforts to address the issues. Mr. Bergman, Director of Planning, Zoning and Building, acknowledged interdepartmental communication problems related to the issue and discussed potential changes to tighten code language and enhance coordination between

departments. Council members discussed challenges in site monitoring and the need for improved execution by staff. Anita Seltzer, 44 Cocoanut Row, expressed concerns about the Town Council's handling of ARCOM projects, emphasizing the importance of following codes and guidelines to avoid legal consequences.

Please see [this link](#) for direct access to a recording of the public's full comments.

VI. [APPROVAL OF AGENDA \(23:32\)](#)

The following modifications were made to the agenda:

Addition of Waiver of Town Code Section 18-237, For Building Permit Extension for 300 Seminole Avenue under C. 4. Time Extensions, Waivers and Three-Strike Matters.

A reordering of the resolutions, hearing Resolution No. 149-2023 before Resolution No. 148-2023

A motion was made by Council Member Cooney and was seconded by Council President Pro Tem Lindsay to approve the agenda as amended. The motion was carried unanimously, 5-0.

VII. [CONSENT AGENDA \(25:16\)](#)

A. **ZON-23-112 285 SUNRISE AVE—SPECIAL EXCEPTION AND VARIANCE** The applicant, Island Animal Hospital (Dr. Mary Ellen Scully), has filed an application requesting Town Council review and approval for a Special Exception for a permitted use greater than 3,000 SF in the C- TS zoning districts for a new veterinarian office and (1) Variance to allow a new veterinarian office on the ground floor in lieu of the use being located above the first floor.

B. **ZON-23-122 400 ROYAL PALM WAY—SPECIAL EXCEPTIONS WITH SITE PLAN REVIEW AND VARIANCE** The applicant, Citizens BankNA, has filed an application requesting Town Council review and approval for a (1) Special Exception for a bank and (2) a Special Exception for a drive-thru facility and a Site Plan Review for a use greater than 2,000 SF in the C-OPI zoning district for third floor bank in an existing four-story office building. Additionally, a Variance is being requested to not provide 6 additional parking spaces required as a change of use from office space to banking space.

A motion was made by Council Member Cooney and seconded by Council Member Crampton to approve the consent agenda as amended, that the projects contained within the Consent Agenda meet the requirements of Chapter 134, specifically Sections 134-326 through 134-330 for Site Plan Review, Section 134-229 for Special Exceptions, and Section 134-201 for Variances, and with the removal of ZON-24-012, 325 Via Linda from the approval. The motion was carried unanimously, 5-0.

C. **ZON-24-012 325 VIA LINDA – VARIANCE (27:10)** The applicant, Three Palm Trees LLC (Maura Ziska), has filed an application requesting Town Council review and approval for a Variance to exceed by the maximum width of a dock based on lotwidth.

A motion was made by Council Member Crampton and was seconded by Council President Pro Tem Lindsay that Variance No. ZON-24-012 shall be granted and

find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201 (A), items 1 through 7 have been met. The motion was carried 4-1, with Council Member Araskog dissenting.

VIII. REGULAR BUSINESS

IX. RESOLUTIONS

- A. [RESOLUTION NO. 149-2023 \(29:43\)](#): A Resolution Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Ratifying And Confirming The Determination Of The Landmarks Preservation Commission That The Property Known As 318 Australian Ave Meets The Criteria Set Forth In Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach; And Designating Said Property As A Town Of Palm Beach Landmark Pursuant To Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach. *The property owners are supportive of this designation. The Landmarks Preservation Commission voted 7-0 for Landmarking.*

Janet Murphy, MurphyStillings, presented background information on the project and historical information on the property. She outlined how the property met Criteria 1 and 3 for Landmark Designation.

Ex parte communications were disclosed by Council Member Cooney and Mayor Moore.

A motion was made by Council Member Cooney and was seconded by Council President Pro Tem Lindsay to make the designation report part of the record. The motion was carried unanimously, 5-0.

Aimee Sunny, Preservation Foundation of Palm Beach, encouraged the Town Council to support the renovation and said that variances would be necessary for the property to be properly rehabilitated. Council Member Cooney thanked the owner for being willing to allow their property to be a landmarked structure and said that there have been some changes to state law, which will eliminate the town's ability to landmark properties absent the property owner's consent.

A motion was made by Council Member Araskog and was seconded by Council Member Cooney to adopt Resolution 149-2023, designating the property at 318 Australian Avenue as a landmark of the Town of Palm Beach, on the basis that it meets criteria Numbers 1 and 3 of Section 54-161 of the Town of Palm Beach Code and in the Landmarks Preservation Ordinance No. 2-84. The motion was carried unanimously, 5-0.

Mackey Reed, Director of Public Affairs with the Palm Beach Preservation Foundation, was introduced and congratulated on her new role.

This issue was discussed for 13 minutes. Please see [this link](#) for direct access to a recording of the full discussion.

- B. [RESOLUTION NO. 148-2023 \(42:33\)](#): A Resolution Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Ratifying And Confirming The Determination Of The Landmarks Preservation Commission That The Property Known As 262 Sunset Ave Meets The Criteria set forth in Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach; And Designating Said Property As A Town Of Palm Beach Landmark Pursuant To Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach.

The property owner is opposed to this designation. The Landmarks Preservation Commission voted 7-0 for Landmarking.

Ex parte communications were disclosed by Council Members Araskog, Cooney, Council President Pro Tem Lindsay, Council President Zeidman, and Mayor Moore.

Janet Murphy, MurphyStillings, presented background information on the project and historical information on the property. She outlined how the property met Criteria 1 and 3 for Landmark Designation.

A motion was made by Council Member Cooney and was seconded by Council Member Araskog to make the designation report part of the record. The motion was carried unanimously, 5-0.

Jamie Crowley, representing 262 Sunset Avenue, LLC, opposed landmark designation for this property, discussing the lack of notification to the owner and inadequate supporting documents during the process. Eugene Pandula, an architect for the owner, stated that the property did not meet the landmark criteria due to zoning and structural changes that have occurred. Friederike Mittner, Design and Preservation Manager, believed the evidence supported the property meeting the criteria. Public comments from Aimee Sunny and Amanda Skier of the Preservation Foundation of Palm Beach supported designation. Mr. Crowley argued that due process was violated during the Landmarks Preservation Commission hearing, and Skip Randolph, Town Attorney, discussed potential legal issues. The Council decided to remand the application back to the Landmarks Preservation Commission, considering the time constraints and concerns about due process during the initial hearing.

A motion was made by Council Member Araskog and was seconded by Council Member Cooney to remand Resolution No. 148-2023 back to the Landmarks Preservation Commission.

Council Member Araskog thought it was necessary for Mr. Randolph to meet with the Chair and Vice-Chair of LPC before the next hearing. Mr. Randolph said the board was advised at the original hearing that they should not limit the applicant to three minutes for their presentation.

A motion made by Council Member Araskog and was seconded by Council Member Cooney to amend the motion to remand Resolution No. 148-2023, 262 Sunset Avenue, to a date certain of January 17, 2024, back to LPC. The motion carried unanimously, 5-0.

This issue was discussed for 1 hour and 15 minutes. Please see [this link](#) for direct

access to a recording of the full discussion.

Clerk's note: A short break was taken at 11:24 a.m. The meeting resumed at 11:41 a.m.

X. DEVELOPMENT REVIEWS

A. Appeals

1. [Administrative Appeal 1236 S Ocean Blvd./200 Emerald Beach Way \(1:57:43\)](#): Appeal of the decision of an administrative officer regarding a code enforcement case of a fence. The appellant cites zoning code Sections 134-141, 134-1666, and 134-1548 for this appeal.

Mr. Randolph informed the Town Council that this was not a De Novo hearing, and only the applicant would present arguments. Amanda Quirke Hand, representing the owner of 100 Emerald Beach Way, presented the appeal of an administrative decision regarding an unapproved fence without a permit. The fence was contested for being too close to the property she represented and for not following zoning regulations. Ms. Hand presented evidence, including a photo of the fence being used as a dog pen. M. Timothy Hanlon, representing the Thornton family at 1236 S. Ocean Blvd., countered that the structure was a temporary dog playpen, not a fence, and emphasized its mobility. Mr. Bergman did not consider it a fence. Council members expressed frustration that staff and the Council had spent time on this issue and urged the parties to resolve the matter. Council Member Araskog questioned how long the fence had been in place. Mr. Hanlon claimed the appeal was filed out of spite, and the Thorntons used the additional property as open space.

A motion was made by Council Member Crampton and was seconded by Council Member Cooney to deny the appeal based upon the fact no credible evidence had been presented. The motion was carried 4-1, with Council Member Araskog dissenting.

Council Member Araskog asked the attorneys to strongly recommend that the Thorntons relocate the fence. Council President Pro Tem Lindsay suggested the attorneys urge their clients to remove the surveillance equipment.

This issue was discussed for 31 minutes. Please see [this link](#) for direct access to a recording of the full discussion.

1. Old Business

- a. **ZON-23-068 (ARC-23-090) 206 CARIBBEAN RD (COMBO) - SITE PLAN REVIEW** The applicant, Walter Wick, has filed an application requesting Town Council review and approval for Site Plan Review to allow development of a new single-family residence on a platted nonconforming parcel deficient in lot width and lot area required in the R-B Zoning District. The Architectural Commission shall perform the design review component of the application.

Please note: This item was deferred to January 10, 2024, meeting at the Approval of the Agenda, Item VI.

- b. **ZON-23-084 (ARC-23-109) 600 TARPON WAY (COMBO) -**

SPECIAL EXCEPTION AND VARIANCES The applicants, Frank and Annie Falk, have filed an application requesting Town Council review and approval for 7 variances, including (1-2) for building height plane reductions, (3- 6) to locate mechanical equipment within the front yard, (7) to exceed maximum site wall height within the front yard, and a Special Exception for reduced vehicular gate setbacks on a dead-end street, for the construction of a new two-story single-family residence over 10,000 SF and sitewide landscape and hardscape improvements. The Architectural Commission shall perform the design review component of the application.

Please note: This item was deferred to January 10, 2024, meeting at the Approval of the Agenda, Item VI.

2. New Business

- a. **ZON-23-077 (ARC-23-107) 162 E INLET DR (COMBO) - VARIANCE (2:28:12)** The applicants, David and Jill Shulman, have filed an application requesting Town Council review and approval for a variance to (1) exceed the maximum allowable Cubic Content Ratio (CCR) for the construction of enclosed additions and a rear awning to the single-family residence. The Architectural Commission shall perform the design review component of the application. *The Architectural Commission approved the design (5-2), and supported variances (7-0).*

Ex parte communications declared by Council Members Araskog, Cooney and Council President Zeidman.

M. Timothy Hanlon, attorney for the owner, outlined the variances needed to address existing nonconformities, including landscape open space, the pool setback, and mechanical equipment location. Patrick Segraves, SKA Architect + Planner, presented plans for the proposed additions and modifications. Council President Zeidman suggested clarifying on the agenda that the variances do not adversely affect the architecture. Council Member Cooney found the variance reasonable but questioned the need to further enlarge the structure. Council President Pro Tem Lindsay echoed concerns about the size of homes in the area, seeing no hardship justifying further expansion.

A motion was made by Council Member Araskog and was seconded by Council Member Cooney that Variance No. ZON-23-077, 162 E. Inlet Drive, be denied for reasons that the application does not meet the criteria set forth in 134-201(a), items 1, 2, 3, 5, 6, 7.

Mr. Hanlon showed visual aids and explained the proposed modifications compared to the existing structure and stated that the variance could not be smaller. Council Member Crampton thought the proposed project's impact was minimal, but he could not find a hardship to justify granting a variance.

The motion was carried unanimously, 5-0.

This issue was discussed for 32 minutes. Please see [this link](#) for direct access to a recording of the full discussion.

Clerk's note: Mayor Moore left the meeting at 12:37 p.m. and returned after the lunch break.

- b. **[ZON-23-088 \(ARC-23-120\) 1600 S OCEAN BLVD \(COMBO\) - SITE PLAN REVIEW AND VARIANCES \(2:59:28\)](#)** The applicant, PB Pavilion Trust (Michael Vineberg, Robert G. Simses and Peter Flanagan, Trustees), has filed an application requesting Town Council review and approval for site plan review for an addition to house a generator over 150kW, and (3) variances for (1) additional parapet height in the required north side yard setback and (2 – 3) to reduce the required north and south side yard setback in order to construct one-story additions to a previously approved two-story residence. The Architectural Commission shall perform design review of the application. *The Architectural Commission approved the design (7-0) and supported the variances (7-0).*

Ex parte communications declared by Council Member Araskog and Council President Zeidman.

Maura Ziska, attorney for the owner, provided an overview of the project and explained the variances requested. Harold Smith, Smith and Moore Architects, presented the proposed architectural plans. Council Member Araskog inquired about eliminating the parapet, but Mr. Smith thought that would be a mistake. Council President Zeidman thought the project could be symmetrical, eliminating the need for variances. Mr. Smith showed the original proposal and explained the solution reached. The goal was to find a solution that would not interrupt the architecture of the structure.

A motion was made by Council Member Araskog that Variance No. ZON-23-088, 1600 S. Ocean Blvd., be denied for reasons that the application does not meet the criteria set forth in 134-201(a), items 1 through 7. The motion died for lack of a second.

A motion was made by Council Member Crampton and was seconded by Council President Zeidman that Variance No. ZON-23-088, 1600 S. Ocean Blvd., shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201 (a), items 1 through 7, have been met. The motion was carried 4-1, with Council Member Araskog dissenting.

A motion was made by Council Member Crampton and was seconded by Council President Pro Tem Lindsay that Site Plan No. ZON-23-088, 1600 S. Ocean Blvd., as said application meets the criteria set forth in sections 134-229 and 134-329, respectively, of the Town Code and finds that approval of the Site Plan will not adversely affect the

public interest, that all zoning requirements governing the use have been met and that satisfactory provision and arrangement has been made concerning items (1) through (11) of section 134-329. The motion was carried unanimously, 5-0.

This issue was discussed for 19 minutes. Please see [this link](#) for direct access to a recording of the full discussion.

- c. **ZON-23-104 (ARC-23-137) 310 CLARKE AVE (COMBO)—VARIANCES** The applicant, Mark & Patricia Davies, has filed an application requesting Town Council review and approval for seven (7) Variances (1-2) to exceed maximum equipment screening wall heights in the east and west side-yards, (3) to exceed the maximum number of equipment in the west side-yard, (4-5) to locate A/C equipment closer than permitted to the east and west side property lines, (6) to locate a pool heater closer to the east side property line than permitted, (7) and to forgo the requirement to enclose pool equipment in a pump house enclosure. The Architectural Commission shall perform design review of the application.

Please note: This item was deferred to January 10, 2024, meeting at the Approval of the Agenda, Item VI.

- d. **ZON-23-105 (ARC-23-123) 1186 N OCEAN WAY (COMBO)—VARIANCES** The applicant, Martha Lee Johnson 2012 Exempt Trust (Stan Johnson), has filed an application requesting Town Council review and approval for (3) Variances: (1) for reduced rear setbacks for the installation of a pool heater, (2) for increased separation distance between the pool and the pool equipment, and (3) to exceed allowable chimney height, in conjunction with the construction of a new two-story single-family residence. The Architectural Commission will perform the design review component of the application.

Please note: This item was deferred to January 10, 2024, meeting at the Approval of the Agenda, Item VI.

- e. **ZON-23-106 (COA-23-038) 318 AUSTRALIAN AVE (COMBO)—VARIANCES (3:18:48)** The applicant, Combinat, LLC (Rep. Timothy Hanlon), has filed an application requesting Town Council review and approval for (1) Variance to exceed the maximum allowable lot coverage for the construction of a rear enclosed addition and pergola to an existing one-story landmarked structure. The Landmarks Preservation Commission shall conduct the design review portion of the application and shall decide on the floodplain variance and Historic Preservation Tax Abatement. *The Landmarks Preservation Commission approved the design (7-0), supported variance (7-0) and supported floodplain variance (7-0).*

Ex parte communications declared by Council Member Cooney.

M. Timothy Hanlon, attorney for the owner, provided an overview of the

project and explained the variance requested. Yiannis Varnava, Varnava Design Studio, presented the architectural plans. Council President Pro Tem Lindsay asked Ms. Ailes to consider making the space permeable to help with potential flooding. Mr. Varnava said the landscaping is conforming and the drainage system will be entirely updated. Council Member Cooney supported this project. Mr. Hanlon said the property was nonconforming, and the landmarked status creates little to no flexibility to make the property conforming.

A motion was made by Council Member Cooney and was seconded by Council Member Araskog that Variance No. ZON-23-106, 318 Australian Avenue, shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201 (a), items 1 through 7, have been met. The motion was carried unanimously, 5-0.

This issue was discussed for 15 minutes. Please see [this link](#) for direct access to a recording of the full discussion.

- f. **ZON-23-109 (COA-23-040) 134 EL VEDADO RD (COMBO)—VARIANCE.** The applicants, Elizabeth and Jeffrey Leeds, have filed an application requesting Town Council review and approval for (1) Variance to provide vehicle queuing space deficient in depth between the driveway gate and edge of roadway. The Landmarks Preservation Commission shall perform a design review of the application. The applicants, Elizabeth and Jeffrey Leeds, have filed an application requesting Town Council review and approval for (1) Variance to provide vehicle queuing space deficient in depth between the driveway gate and edge of roadway. The Landmarks Preservation Commission shall perform a design review of the application.

Please note: This item was deferred to January 10, 2024, meeting at the Approval of the Agenda, Item VI.

- g. **ZON-23-111 (HSB-23-009) 269 PARK AVE (COMBO)—VARIANCES** The applicant, Schnapps 269 Park Avenue LLC (Andrew and Lorraine Dodge), has filed an application requesting Town Council review and approval for four (4) Variances to (1) expand an existing nonconforming 3rd story of an existing three-story historically significant building by adding four side rooftop dormer windows, (2) to exceed the maximum overall building height for the construction of four dormer windows, (3) to reduce the required side setback for the dormer windows and habitable terrace deck, and (4) to reduce the required front setback for a new entrance feature and habitable terrace deck. The Landmarks Preservation Commission shall conduct the design review portion of the application and shall decide on the floodplain variance.

Please note: This item was deferred to January 10, 2024, meeting at the Approval of the Agenda, Item VI.

- h. **ZON-23-113 (ARC-23-145) 123 CHILEAN AVE (COMBO)—SPECIAL EXCEPTION AND VARIANCES** The applicant, Robert & Perri Bishop, has filed an application requesting Town Council review and approval for Special Exception to develop a parcel comprised of portions of platted lots which is deficient in minimum required lot width and lot area in the R-B district, and (3) Variances including (1 and 2) to reduce the required east and west side-yard setbacks and (3) to exceed the maximum permitted cubic content ratio (CCR) permitted, in conjunction with a new two-story single-family residence and one-story accessory cabana structure. The Architectural Commission shall perform design review of the application.

Please note: This item was deferred to January 10, 2024, meeting at the Approval of the Agenda, Item VI.

- i. **ZON-23-118 (ARC-23-140) 2278 IBIS ISLE RD (COMBO)—VARIANCE** The applicant, Angel Arroyo, has filed an application requesting Town Council review and approval for a Variance (1) to eliminate the required garage enclosure for two vehicles in the R-B district. The Architectural Commission shall perform design review of the application.

Please note: This item was deferred to January 10, 2024, meeting at the Approval of the Agenda, Item VI.

- j. **ZON-23-119 (ARC-23-146) 995 S OCEAN BLVD (COMBO)—VARIANCES** The applicant, Mary S. Conrad, has filed an application requesting Town Council review and approval for four (4) Variances to construct a second story addition on an existing single-family residence within the required (1-2) front yard setback, (3) within the required side yard setback, and (4) within the building height plane. The Architectural Commission shall perform design review of the application.

Please note: This item was deferred to January 10, 2024, meeting at the Approval of the Agenda, Item VI.

- k. **ZON-24-003 (COA-23-047) 340 ROYAL POINCIANA WAY (COMBO)—SPECIAL EXCEPTION AND VARIANCE (3:33:46)** The applicant, TUTTO MARE LLC and SIDNEY SPIEGEL, TRUSTEE OF TRUST #31520371 DATED OCTOBER 25, 1984, has filed an application requesting Town Council review and approval for (1) a Special Exception for a new restaurant within the Royal Poinciana Theatre building at the west side of The Royal Poinciana Plaza, (2) a Special Exception for outdoor café seating in association with the restaurant, and (1) a Variance to exceed the maximum height of rooftop kitchen equipment. The Landmarks Preservation Commission shall perform design review of the application.

Ex parte communications disclosed by Council Members Araskog, Cooney, Crampton, Council President Zeidman, Council President Pro Tem Lindsay, and Mayor Moore.

Jamie Crowley, attorney for the applicant, presented a project

overview seeking a Special Exception for 64 outdoor seats and a variance for rooftop equipment. He clarified that the rooftop equipment variances were essential for ventilation and also stated that a sound study had confirmed compliance with the town's noise ordinances. Dominic Kozerski of Bonetti Kozerski Architecture and Nelo Freijomel of Spina O'Rourke presented the plans for the restaurant.

Council Member Araskog raised questions about the replacement of French doors with sliding doors, screening on all sides, and potential modifications to the Declaration of Use. Council Member Crampton inquired about the operability of windows for interior cooling, and Council President Pro Tem Lindsay sought details on closing times and the operational scope of the outdoor seating area. She emphasized the need for living vegetation and requested a letter of support from the homeowner's association due to concerns about sound. The absence of public concerns was noted by Ms. Davis. Council President Zeidman stressed the importance of sound considerations in granting the Special Exception. Council Member Araskog sought proof that the restaurant would be "town serving" and expressed concerns about operational hours, suggesting a phased approach to outdoor seating. Mr. Crowley explained the process for addressing noise complaints. Mayor Moore thought this waterfront dining was needed in Palm Beach. She requested a letter of support from the President of The Towers. Council Member Crampton was pleased with the atmosphere of the restaurant. Council Member Araskog discussed possible modifications to the Declaration of Use that could be needed in the future. Council President Zeidman also discussed this and suggested a thorough review of the Declaration of Use in January.

Samantha David urged the council to give the benefit of the doubt to the experienced restaurant owners. Gianpaolo and Gabby DeFelice, owners of Tutto Mare, shared their background and plans for the restaurant. Anne Pepper, 333 Seaspray Avenue, discussed concerns about code enforcement, noise, and limiting special events.

A motion was made by Council Member Crampton and was seconded by Council Member Cooney that Variance No. ZON-24-003 be granted and find in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201 (A), items 1 through 7 have been met and providing that the property owner did voluntarily commit that prior to the issuance of a building permit to either provide a recorded utility easement or an easement agreement satisfactory to the Town that ensures a recorded easement will be granted, if necessary, to underground utilities in the area, and that the area must be screened.

Council Member Cooney noted that the type of equipment necessary for the roof is not allowed under the Town Code.

On roll call, the motion was carried unanimously, 5-0.

A motion was made by Council Member Crampton and was seconded by Council President Pro Tem Lindsay to approve Special Exception No. ZON-24-003, indoor restaurant seating,

as said application meets the criteria set forth in sections 134-229 and 134-329, respectively, of the Town Code and finding that approval of the Site Plan will not adversely affect the public interest, that all zoning requirements governing the use have been met and that satisfactory provision and arrangement has been made concerning items (1) through (11) of section 134-329, and approval is conditioned on approval of satisfactory details in the Declaration of use Agreement will return to the Town Council on January 10, 2024. On roll call, the motion was carried unanimously, 5-0.

A motion was made by Council Member Crampton and was seconded by Council President Pro Tem Lindsay to approve Special Exception No. ZON-24-003, outdoor restaurant seating, as said application meets the criteria set forth in sections 134-229 and 134-329, respectively, of the Town Code and finding that approval of the Site Plan will not adversely affect the public interest, that all zoning requirements governing the use have been met and that satisfactory provision and arrangement has been made concerning items (1) through (11) of section 134-329, and approval is conditioned on approval of satisfactory details in the Declaration of use Agreement will return to the Town Council on January 10, 2024. On roll call, the motion carried 4-1, with Council Member Araskog dissenting.

It was the consensus of the Town Council to defer the Declaration of Use, as well as the 1979 Agreement changes, to the January 10, 2024, Town Council meeting.

This issue was discussed for 1 hour and 44 minutes. Please see [this link](#) for direct access to a recording of the full discussion.

XI. ORDINANCES

A. **Second Reading**

1. [ORDINANCE NO 017-2023 \(5:17:25\)](#): An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 18, Buildings And Building Regulations, At Article IV, Florida Building Code, Section 18-232, Definitions, Section 18-235, Building Division; At Section 18-237, Agreed Maximum Time Schedule For Completion Of Major Construction, And By Adding Section 18-240, Town Council Building Permit Extension Fee; Providing For Severability; Providing For The Repeal Of Ordinances In Conflict; Providing For Codification; And Providing An Effective Date.

Director Bergman read Ordinance No. 017-2023 by title only.

A motion was made by Council Member Crampton and was seconded by Council Member Araskog to adopt Ordinance No. 017-2023 on the second reading. The motion was carried unanimously, 4-0. Clerk's note: Council Member Cooney was not in the room during the vote.

B. **First Reading**

1. An Ordinance Amending Chapter 134, Zoning, to Allow Arcades and Colonnades Within Public Rights-Of-Way in the C-TS Zoning District

ORDINANCE NO. 008-2023: An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending Chapter 134, Zoning, Article VI, District Regulations, Division 8, C-TS Town-Serving Commercial District, Section 134-1114, Same-Exceptions, To Allow Arcades And Colonnades Within Public Rights- Of-Way; Providing For Severability; Providing For The Repeal Of Ordinances In Conflict; Providing For Codification; And Providing An Effective Date.

Please note: This item was deferred to January 10, 2024, meeting at the Approval of the Agenda, Item VI.

2. An Ordinance Amending Chapter 134, Zoning, to Allow Valet Only Parking Structures Ancillary to Existing Hotels in the R-C Zoning District

ORDINANCE NO. 024-2023: An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending Chapter 134, Article I., Section 134-2 Definitions And Rules Of Construction, To Create A Definition For Valet Only Garage; To Article VI, District Regulations, Division 5. R-C Medium Density Residential District, Section 134-945, Special Exception Uses; Section 134-948 Lot, Yard and Area Requirements, Section 134-955, And Off-Street Parking And Loading; To Allow Valet Only Parking Structures Existing Hotel; Providing For Severability; Providing For The Repeal Of Ordinances In Conflict; Providing For Codification; And Providing An Effective Date.

Please note: This item was withdrawn at the Approval of the Agenda, Item VI.

C. Time Extensions, Waivers, and Three-Strike Matters

1. [Waiver of Town Code Section 18-237, For Building Permit Extension for 334 Chilean Avenue \(5:18:53\)](#)

Wayne Bergman, Director of the Planning, Zoning and Building Department, described the building permit extension request for 11 months. Paul Courchene, President of Courchene Development Corp, explained the ongoing project and the reason for the extension request to complete the work.

A motion was made by Council Member Cooney and was seconded by Council Member Araskog to approve the request as presented. The motion was carried unanimously, 5-0.

This issue was discussed for 4 minutes. Please see [this link](#) for direct access to a recording of the full discussion.

2. [Waiver of Town Code Section 18-237, For Building Permit Extension for 200 Bahama Lane \(5:22:15\)](#)

Wayne Bergman, Director of the Planning, Zoning and Building Department, described the building permit extension request for 6.5 months. Matt Courson, The Cury Group Inc., explained the ongoing project and the reason for the extension request to complete the work.

A motion was made by Council Member Cooney and was seconded by Council Member Araskog to approve the request as presented. The motion was carried unanimously, 5-0.

This issue was discussed for 3 minutes. Please see [this link](#) for direct access to a recording of the full discussion.

3. [Waiver of Town Code Section 18-237, For Building Permit Extension for 2000 S Ocean Blvd. \(5:25:33\)](#)

Wayne Bergman, Director of the Planning, Zoning and Building Department, described the building permit extension request for 4 months. Scott Houbert, CA Lindman of South Florida, LLC, explained details regarding the ongoing project and the reason for the extension request to complete the work.

A motion was made by Council Member Araskog and was seconded by Council Member Crampton to approve the request as presented. The motion was carried unanimously, 5-0.

This issue was discussed for 3 minutes. Please see [this link](#) for direct access to a recording of the full discussion.

4. [Waiver of Town Code Section 18-237, For Building Permit Extension for 300 Seminole Avenue. \(5:28:44\)](#)

Wayne Bergman, Director of the Planning, Zoning and Building Department, described the building permit extension request until November 15, 2024. Chet Davis, Davis General Contraction Corporation, explained details regarding the ongoing project and the reason for the extension request to complete the work.

A motion was made by Council Member Araskog and was seconded by Council Member Crampton to approve the request as presented. The motion was carried unanimously, 5-0.

This issue was discussed for 5 minutes. Please see [this link](#) for direct access to a recording of the full discussion.

XII. [ANY OTHER MATTERS \(5:33:05\)](#)

Council Member Araskog requested legal advice on text amendments related to the Code Reform project. She also raised concerns about the communication gaps between the Code, Planning and Zoning, and Public Works departments, seeking ways to improve coordination. Mr. Bergman acknowledged the challenges, emphasizing the need to adhere to departmental rules, but offered to explore internal solutions for presentation to the Town Council. Council President Pro Tem Lindsay and Council President Zeidman supported Mr. Bergman's involvement in discussions with other directors, including Kirk Blouin, Town

Manager, to find resolutions.

This issue was discussed for 5 minutes. Please see [this link](#) for direct access to a recording of the full discussion.

XIII. [ADJOURNMENT \(5:38:20\)](#)

A motion was made by Council Member Araskog and was seconded by Council Member Cooney to adjourn the meeting at 4:11 p.m. The motion was carried unanimously, 5-0.

APPROVED:

Margaret A. Zeidman, Town Council President

ATTEST:

Kelly Churney, Acting Town Clerk

Date: _____



TOWN OF PALM BEACH

ACTION MINUTES OF THE TOWN COUNCIL MEETING HELD ON TUESDAY, DECEMBER 12, 2023

I. CALL TO ORDER AND ROLL CALL (3:25)

The Town Council Meeting was called to order at 9:30 a.m. On roll call, all council members were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE (4:05)

Led by Deputy Town Clerk Gayle-Gordon and Council President Zeidman.

III. MODIFICATIONS TO THE AGENDA (4:44)

The following modifications were made to the agenda:

- 1) Item No. X.C.1 Discussion Regarding Traffic Issues and Presentation of Mitigation Plans

TIME CERTAIN: 11:30 AM

Summary added to the backup.

- 2) Item No. X.C.2 Discussion Regarding Agreement for Legal Fees with Jones, Foster

Addition of RESOLUTION NO. 157-2023

- 3) Withdrawal of ORDINANCE NO. 023-2023

IV. APPROVAL OF AGENDA (6:43)

Motion was made by Council Member Araskog and seconded by Council Member Crampton to approve the Agenda, as amended. On roll call, the Motion passed unanimously.

V. **RECOGNITIONS (7:09)**

Mayor Moore thanked all the retiring members of the Underground Utilities Task Force. She presented recognition plaques to Zachary Shipley, John McGowan, Jr., and Leslie Shaw.

VI. **COMMENTS OF MAYOR DANIELLE H. MOORE (11:07)**

Mayor Moore thanked the Police Department for holding a Safety Day on Saturday, December 9, 2023. She also expressed appreciation to the Police and Fire Foundation. Mayor Moore recognized several employees for their years of service to the Town. Town Attorney, John “Skip” Randolph, was recognized on his retirement after 44 years of service to the Town. Mayor Moore thanked him for providing legal counsel and his incredible knowledge and devotion to the Town.

VII. **COMMENTS OF TOWN COUNCIL MEMBERS (17:36)**

Council President Zeidman expressed her thanks to Mr. Randolph for his service and his wise advice over the years.

Council President Lindsay expressed her appreciation for Mr. Randolph’s service.

Council Member Crampton stated that Mr. Randolph’s retirement was bittersweet and would be missed as he was a good friend to everyone in Town. Mr. Crampton spoke regarding a letter written by former Mayor Gail Coniglio and ten other women published in the Shiny Sheet on November 26, 2023. He read a portion of the letter. He stated that he believed that the town was at an inflection point and that everyone should be more protective of the decisions being made for the town.

Council Member Araskog stated that Mr. Randolph’s integrity and moral compass had led the way for everyone else to be moral and to have integrity. She thanked him for serving the Town and admired his love for the community. She wished everyone happy holidays and agreed with Council Member Crampton’s comments regarding the letter he read. Council Member Araskog also apologized to Mrs. Ailes regarding comments made at a recent council meeting. She stated that she had great respect for Mrs. Ailes and her integrity.

Council Member Cooney stated that Mr. Randolph had guided him when he became active in local government and thanked him for his service to the Town.

Council President Zeidman mentioned the upcoming amendments regarding the Zoning Code. She spoke regarding the draft Traffic Study from the Corradino Group and stated that it was important for staff to have the opportunity to read the study before presentation to the Town Council.

VIII. **COMMUNICATIONS FROM CITIZENS -3 MINUTE LIMIT PLEASE (36:18)**

Richard Sammons, 455 Worth Avenue, ARCOM member declared a conflict regarding the Charette in February.

Diane Buhler, Friends of Palm Beach, spoke regarding the ongoing beach cleanup. She stated there was an increase in medical waste on the beaches.

IX. **APPROVAL OF CONSENT AGENDA (47:51)**

The following items were pulled from the Consent Agenda and heard under Item No. X.A.:

IX.B.3. RESOLUTION NO. 153-2023

IX.B.5. RESOLUTION NO. 155-2023

IX.C.1. Donation Acceptance from the Police and Fire Foundation

Motion was made by Council Member Cooney and seconded by Council President Pro Tem Lindsay to approve the Consent Agenda, as amended. On roll call, the Motion passed unanimously.

A. MINUTES

1. Town Council Meeting Minutes
 - a. November 14, 2023, Town Council Meeting Minutes
 - b. November 15, 2023, Town Council Development Review Meeting Minutes
2. Approval of Major Matters Considered by the Architectural Review Commission at its Meeting of November 20, 2023

B. RESOLUTIONS

1. RESOLUTION NO. 151-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, approving an award to Coastal Protection Engineering LLC in a not-to-exceed amount of \$278,515 for professional services related to federal permitting of the Mid-Town Beach Nourishment Project.
2. RESOLUTION NO. 152-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, approving a retroactive payment authorization to the Municipal Public Safety Communications Consortium of Palm Beach County, LLC for annual membership dues in the amount of \$124,777.15.
3. RESOLUTION NO. 153-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, approving Police and

Fire Departments radio replacement with Motorola Solutions utilizing the NASPO Value Point Cooperative Contract in the amount of \$1,479,388.91 for police radios, \$690,369.91 for fire radios and \$972,613 for dispatch consoles for a total price of \$3,092,371.82 which includes a \$50,000 trade-in allowance. Payment milestones will be \$2,061,581.21 upon issuance of contract and \$1,030,791.61 at final system acceptance no earlier than October 1, 2024.

Pulled from Consent

4. RESOLUTION NO. 154-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, approving a purchase order to Kelly Tractor Company in the amount of \$357,400 and establishing a project budget of \$375,500 for the acquisition of a replacement Landfill Bulldozer.
5. RESOLUTION NO. 155-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, approving a purchase order to Kimley-Horn and Associates, Inc. for on-call consulting, permit compliance, sampling, and monitoring at the Skees Road and Okeechobee Boulevard Landfill Facilities in the annual amount of \$143,452 and establishing a project budget of \$160,000.

– Pulled from Consent

C. OTHER

1. Donation Acceptance from the Police and Fire Foundation
2. West Palm Beach Mobility Coalition
3. Permission to Close Country Club Road for Annual Inspection of the Delta-8 Stormwater Station and Permission to Close North Lake Way for Annual Inspection of Sanitary Sewer Stations Echo-1 & Echo-2
4. Recommending Dissolving the Underground Utilities Task Force
5. Authorization for 160 Royal Palm Way - Use of Right-of-Way During Season

– Pulled from Consent

X. REGULAR AGENDA

A. Matters Pulled From Consent Agenda:

1. [RESOLUTION NO. 153-2023 \(49:45\)](#) A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, approving Police and Fire Departments radio replacement with Motorola Solutions utilizing the NASPO Value Point Cooperative Contract in the amount of \$1,479,388.91 for police radios, \$690,369.91 for fire radios and \$972,613 for dispatch consoles for a total price of \$3,092,371.82 which includes a \$50,000 trade-in allowance. Payment milestones will be \$2,061,581.21 upon issuance of contract and \$1,030,791.61 at final system acceptance no earlier than October 1, 2024.

At the request of Council President Pro Tem Lindsay, Town Manager Blouin explained that the request is for a five-year contract for Police and Fire radios and dispatch consoles. He stated that the town has been a member of the Municipal Public Safety Communications Consortium of Palm Beach County, Inc. (MPSCC), and member municipalities since 2006.

Responding to Council Member Araskog, Andy Jadoo, Director of Information Technology stated that anti-virus and fiber connectivity exist and are currently being used without any issues.

Motion was made by Council President Pro Tem Lindsay and seconded by Council Member Crampton to approve Resolution No. 153-2023. On roll call the Motion passed unanimously.

2. [RESOLUTION NO. 155-2023 \(1:07:56\)](#) A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, approving a purchase order to Kimley-Horn and Associates, Inc. for on-call consulting, permit compliance, sampling, and monitoring at the Skees Road and Okeechobee Boulevard Landfill Facilities in the annual amount of \$143,452 and establishing a project budget of \$160,000.

Council Member Araskog requested a re-consideration of the Consent Agenda.

Motion was made by Council Member Araskog and seconded by Council Member Crampton to re-consider the Consent Agenda. On roll call, the Motion passed unanimously.

Motion was made by Council Member Araskog and seconded by Council Member Crampton to pull item no. IX.C.5. from the Consent Agenda. On roll call, the Motion passed unanimously.

Motion was made by Council Member Crampton and seconded by Council Member Cooney to approve Resolution No. 155-2023. On roll call, the Motion passed unanimously.

3. [Donation Acceptance from the Police and Fire Foundation \(1:13:59\)](#)

Sean Baker, Assistant Fire Chief, explained that the donation would be committed to the AED program which would make Palm Beach a safer community. The AEDs would be strategically placed in Town to improve response rates for sudden cardiac arrest. Training in the use of the equipment would be provided to residents and local businesses. He stated that units would be available for purchase.

Motion was made by Council Member Cooney and seconded by Council Member Araskog to approve acceptance of the donation from the Police and Fire Foundation. On roll call, the Motion passed unanimously.

4. [Authorization for 160 Royal Palm Way – Use of Right-of-Way During Season \(1:20:10\)](#)

In response to Council Member Araskog, Mr. Brazil explained that the work zone would be inside the scaffolding and pedestrians would walk around the scaffolding.

Motion was made by Council Member Cooney and seconded by Council Member Araskog to authorize the use of right-of-way during season for 160 Royal Palm Way. On roll call, the Motion passed unanimously.

B. Old Business

1. [Town-Wide Undergrounding Project - Review of Project and Dashboard, Summary of Project Status \(1:22:30\)](#)

Patricia Strayer, Public Works, stated there was no additional information on moving forward with the undergrounding project. She said Phase III would be moving forward with conversions, and Phase V north and south would include energizing the underground network. Conversions in those areas have not begun. Phase VI north is significantly the construction and drilling, which have already exceeded 50 percent. Residents may feel the impacts of Phase IV south, as construction progresses. In dealing with Florida Power and Light (FPL) as far as trading out the streetlights, they would do so without delay or additional cost.

2. [RESOLUTION NO. 156-2023 \(1:30:00\)](#) A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, approving additional funding to Kimley-Horn and Associates, LLC in the amount of \$50,000 for professional engineering on an as-needed basis related to the Water Supply Feasibility Study for a total award amount of \$666,380.

Mr. Brazil said staff has been working with Kimley-Horn on this water supply feasibility study for almost four (4) years. Kimley-Horn was selected through a competitive bidding process. The job was awarded in 2020 for \$316,000, and since then, the staff has recommended, and the Town Council has approved three change orders, each for \$100,000. The staff is at the point of initial negotiations with the two entities, and the project is where the staff had thought it would be. To secure the assistance of Kimley-Horn in the future, an additional Change Order would have to be approved in the amount of \$50,000. This would maintain their services through negotiations, for additional public meetings, and for any additional technical assistance that may be necessary, as a determination is being made about who will supply water to the town.

Motion was made by Council Member Cooney and seconded by Council

Member Crampton to approve Resolution No. 156-2023. On roll call, the Motion passed unanimously.

3. [Updated Comprehensive Parking Plan \(1:32:40\)](#)

Council Member Crampton stated that the ride-share service, Rove, will not be implemented in town. The parting of ways was amicable, and they will be moving to another area to offer their services.

Lt. Paul Alber, Police Department, presented the updates regarding the parking stickers sold and signage that had been installed. He shared real-time data collected from high-performing parking zones within Town.

4. [Landscape and Lawn Maintenance Request Earlier Start Time at 8:30 AM on Weekdays \(1:58:55\)](#)

Colin Goldsmith, 2116 Bellcrest Court, Royal Palm Beach, FL, Botanica Landscaping spoke regarding the challenges faced by landscaping servicers as it relates to the 9:00 a.m. start time. He stated that an earlier start time would improve their ability to get into town before the morning rush hour.

After a lengthy discussion, the Town Council directed Mr. Goldsmith to return to next month's council meeting with confirmation of an Association of Landscape Professionals and a summary of actions to be accomplished by the association's members that would benefit the town's residents.

C. New Business

1. [Discussion Regarding Traffic Issues and Presentation of Mitigation Plans \(2:22:32\)](#)

Council President Zeidman reported that on December 4, 2023, Chief Caristo, Major Scanlon, Lt. Watson and herself met with the Secret Service, Mar-A-Lago Event Coordinator Niki Russell and Harvey Oyer, Attorney to discuss recent events at the Club that caused traffic congestion and the ways to prevent future occurrences. She stated that Mr. Oyer would present a redlined version of the Declaration of Use in January, which would reflect the changes agreed upon during the meeting. She gave a summary of the changes.

Chief Caristo reported that a compromise was reached due to the meeting with personnel at Mar-A-Lago and since then some issues have been corrected. Chief Caristo presented statistics relating to traffic congestion in the area. He reported that in February, he and Mayor Moore forwarded a letter to the US Coast Guard requesting delayed bridge openings during peak hours. The Coast Guard agreed to delayed openings on the Flagler Bridge beginning in August. A request was submitted for delayed openings for the Southern and Royal Park bridges. In October, the US Coast

Guard agreed to delayed openings on a trial basis. The staff has been informed that a Notice of Opposed Rulemaking was submitted which would allow for permanent delayed openings for all three bridges.

Discussion ensued regarding traffic issues and mitigation strategies.

The following residents spoke regarding traffic issues:

Daniel Fairbanks, 138 Chilean Avenue

Jimmy Zisson, 3400 South Ocean Boulevard

Leslie Evans, 256 Worth Avenue, Suite 314, representing Dr. and Mrs. Jerry Lemore

Bill Walde, 141 Barton Avenue

2. [Discussion Regarding Agreement for Legal Fees with Jones Foster \(3:30:48\)](#)

RESOLUTION NO. 157-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Memorandum of Understanding and Agreement and Fee Agreement with Jones Foster P.A.; Authorizing the Town Council President to Execute the Memorandum of Understanding and Agreement; Authorizing the Town Manager to Execute the Fee Agreement; Providing an Effective Date.

Responding to Council President Pro Tem Lindsay, Attorney O'Connor suggested that CPI adjustments be incorporated in the agreement with Mr. Miracle's guidance.

At Council President Zeidman's request regarding the plan to educate her associates regarding the various boards/commissions, Attorney O'Connor explained that there were two Associates who do similar work for other municipalities. For the next couple of months, she will accompany the Associates to the meetings so they will get to know the staff members.

Anita Seltzer, 44 Cocoanut Row, thanked Attorney Randolph for his service to the Town. She expressed concerns regarding Ms. O'Connor not attending all meetings and how information would be transferred from one board/commission to another.

Mayor Moore suggested that a caveat be added to the contract that Attorney O'Connor should attend any meetings of ARCOM or Landmarks Preservation Commission pertaining to commercial projects. Ms. O'Connor agreed.

Motion was made by Council Member Cooney and seconded by Council Member Crampton to approve Resolution No. 157-2023, and the agreement regarding legal fees being set for the next two (2) years after which returning

to the Town Council for CPI increase. On roll call, the Motion passed 4-0 with Council Member Araskog absent.

XI. ORDINANCES

A. Second Reading

1. Proposed Ordinance to Amend Chapter 46 of the Town Code Relative to Fire Prevention and Protection

ORDINANCE NO. 023-2023 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 46, Fire Prevention and Protection in Accordance with Florida Statute 633.202 and 633.208 the "Florida Fire Prevention Code" Adopted by the State of Florida Fire Marshall In Chapter 69A-60 Of the Florida Administrative Code with Local Amendments, National Fire Protection Association National Fire Code - N.F.P.A. 1, Florida Current Edition; And National Fire Protection Association Life Safety Code - N.F.P.A. 01, Florida Current Edition; Including Amendments To Sections 46-32, 46-33, 46-36, 46-66, 46-68, 46-69, 46-70, 46- 71, 46-72, 46-73, 46-74, 46-75, 46-76, 46-77, 46-78, 46-80, And 46-82 All As Provided In Exhibit A Attached; Providing For Severability; Repealing All Ordinances Or Parts Of Ordinances In Conflict Herewith; Providing For Codification; And Providing For An Effective Date.

This item was withdrawn.

B. First Reading

1. [Proposed Ordinance to Amend the Town's Equipment Replacement Fund \(3:21:16\)](#)

ORDINANCE NO. 027-2023 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Providing for an Amendment to the Town's Equipment Replacement Fund Adopted for the Fiscal Year Commencing October 1, 2023, and Providing an Effective Date.

Mr. Miracle explained this Ordinance and advised that this budget amendment would allow for the first installment payment for the Police and Fire radio equipment.

Motion was made by Council Member Crampton and seconded by Council President Pro Tem Lindsay to approve Ordinance No. 027-2023 on First Reading. On roll call, the Motion passed 4-0 with Council Member Araskog absent.

XII. [ANY OTHER MATTERS \(3:46:08\)](#)

XIII. [ADJOURNMENT \(3:46:49\)](#)

Motion was made by Council Member Cooney and seconded by Council Member Crampton to adjourn the Town Council Meeting of December 12, 2023, at 3:12 PM. On roll call, the Motion 4-0 with Council Member Araskog absent.

APPROVED:

Margaret A. Zeidman, Town Council President

ATTEST:

Pat Gayle-Gordon, Deputy Town Clerk

Date



TOWN OF PALM BEACH

Minutes of the Development Review

Town Council Meeting

Held on December 13, 2023

I. [CALL TO ORDER AND ROLL CALL \(1:20\)](#)

The meeting was called to order on December 13, 2023, at 9:31 a.m., with all elected officials present.

II. [INVOCATION AND PLEDGE OF ALLEGIANCE \(1:36\)](#)

Led by Acting Town Clerk Churney and Council President Zeidman.

III. [COMMENTS OF MAYOR DANIELLE H. MOORE \(2:24\)](#)

None

IV. [COMMENTS OF TOWN COUNCIL MEMBERS \(2:45\)](#)

Council President Zeidman recognized the new position at the Preservation Foundation of Palm Beach, recently filled by Mackey Reed.

Amanda Skier discussed the new position of Director of Public Affairs and stated that Aimee Sunny, Director of Education, will be assuming a new title as Director of Preservation and Planning. She indicated that Ms. Sunny would be dedicated to the Landmarks Preservation Commission (LPC) as well as major commercial projects being presented to ARCOM.

V. [COMMUNICATIONS FROM CITIZENS – 3-MINUTE LIMIT, PLEASE \(7:07\)](#)

David Kelso, 255 Monterey Road, discussed ongoing issues at 249 Monterey Road. He indicated that the owner, Michael Peacock, should have sodded and irrigated his property within 30 days of demolishing his previous home. This has not occurred for 6 months, and Mr. Peacock has not been issued a citation or been fined for these Code violations. The homeowners on neighboring streets had to deal with an unsightly construction site and are upset that the situation has not been dealt with. Council President Zeidman wanted the Town Council and the Town Staff to respond in a helpful manner. She thought since Monterey and Colonial Roads backed up to each other, they should be carefully monitored.

Council Member Araskog discussed the path for a violation to be heard by the Code Enforcement Board because of the laws of due process. She recommended hiring more construction site monitors. Council Member Crampton requested something in the council backup to show how Code Enforcement, Public Works, Planning Zoning and Building, and all other departments function together. Director Wayne Bergman acknowledged some inter-departmental communication issues. However, he indicated that staff had worked on some issues with the demolition process that he would like to present to the Town Council.

Anita Seltzer, 44 Cocoanut Row, discussed issues related to the Architectural Review Commission (ARCOM) and the Town Council's handling of commercial projects. ARCOM had to consider a commercial project in February that didn't comply with the comprehensive plan or Worth Avenue Guidelines. The project was sent back to the Town Council for proper review. In response to this and another application in May, the Town Council decided that commercial properties must be presented to them first for deliberation. Despite this, there was a recent vote to send a commercial project to ARCOM with unresolved zoning issues. Ms. Seltzer expressed concern about a potential disconnect between the Town Council's words and actions, emphasizing the importance of following legal procedures and codes to avoid legal complications and costs for the town. She urged the Council to be mindful of these issues in the future.

VI. [APPROVAL OF AGENDA \(23:32\)](#)

The following modifications were made to the agenda:

Addition of Waiver of Town Code Section 18-237 For Building Permit Extension for 300 Seminole Avenue under C. 4. Time Extensions, Waivers, and Three-Strike Matters.

A reordering of the resolutions, hearing Resolution No. 149-2023 before Resolution No. 148-2023

A motion was made by Council Member Cooney and seconded by Council President Pro Tem Lindsay to approve the agenda as amended. The motion was carried unanimously, 5-0.

VII. [CONSENT AGENDA \(25:16\)](#)

- A. **ZON-23-112 285 SUNRISE AVE—SPECIAL EXCEPTION AND VARIANCE** The applicant, Island Animal Hospital (Dr. Mary Ellen Scully), has filed an application requesting Town Council review and approval for a Special Exception for a permitted use greater than 3,000 SF in the C- TS zoning districts for a new veterinarian office and (1) Variance to allow a new veterinarian office on the ground floor in lieu of the use being located above the first floor.
- B. **ZON-23-122 400 ROYAL PALM WAY—SPECIAL EXCEPTIONS WITH SITE PLAN REVIEW AND VARIANCE** The applicant, Citizens BankNA, has filed an application requesting Town Council review and approval for a (1) Special Exception for a bank and (2) a Special Exception for a drive-thru facility and a Site Plan Review for a use greater than 2,000 SF in the C-OPI zoning district for third-floor bank in an existing four-story office building. Additionally, a Variance is being requested to not provide 6 additional parking spaces required as a change of use from office space to banking space.

Council Member Cooney noted that while there was fair criticism of variance

approvals by the Town Council, the variance request for 285 Sunrise Avenue was a perfect example of a flaw in the code.

A motion was made by Council Member Cooney and seconded by Council Member Crampton to approve the consent agenda as amended, that the projects contained within the Consent Agenda meet the requirements of Chapter 134, specifically Sections 134-326 through 134-330 for Site Plan Review, Section 134-229 for Special Exceptions, and Section 134-201 for Variances, and with the removal of ZON-24-012, 325 Via Linda from the approval. The motion was carried unanimously, 5-0.

- C. [ZON-24-012 325 VIA LINDA – VARIANCE \(27:10\)](#) The applicant, Three Palm Trees LLC (Maura Ziska), has filed an application requesting Town Council review and approval for a Variance to exceed by the maximum width of a dock based on lotwidth.

Council Member Araskog asked about the width of the proposed dock. Attorney Maura Ziska responded.

A motion was made by Council Member Crampton and seconded by Council President Pro Tem Lindsay that Variance No. ZON-24-012 shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201 (A), items 1 through 7, have been met. The motion was carried 4-1, with Council Member Araskog dissenting.

VIII. REGULAR BUSINESS

IX. RESOLUTIONS

- A. [RESOLUTION NO. 149-2023 \(29:43\)](#): A Resolution Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Ratifying And Confirming The Determination Of The Landmarks Preservation Commission That The Property Known As 318 Australian Ave Meets The Criteria Set Forth In Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach; And Designating Said Property As A Town Of Palm Beach Landmark Pursuant To Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach. *The property owners are supportive of this designation. The Landmarks Preservation Commission voted 7-0 for Landmarking.*

Friederike Mittner, Design & Preservation Manager, provided confirmation of publication.

Janet Murphy, MurphyStillings, provided historical information on the property and outlined how the property met Criteria 1 and 3 for Landmark Designation.

Ex parte communications were disclosed.

A motion was made by Council Member Cooney and was seconded by Council President Pro Tem Lindsay to make the designation report part of the record. The motion was carried unanimously, 5-0.

Aimee Sunny, Preservation Foundation of Palm Beach, thanked the owner for

their stewardship and encouraged the Town Council to support the designation.

Council Member Cooney also thanked the owner for being willing to allow their property to be a landmarked structure.

A motion was made by Council Member Araskog and was seconded by Council Member Cooney to adopt Resolution 149-2023, designating the property at 318 Australian Avenue as a landmark of the Town of Palm Beach, on the basis that it meets criteria Numbers 1 and 3 of Section 54-161 of the Town of Palm Beach Code and in the Landmarks Preservation Ordinance No. 2-84.

Council Member Cooney asked Attorney O’Conner if the town would require something in writing to formalize landmark designations since state law had changed. His concern was that future property owners may question whether the property was properly designated.

The motion was carried unanimously, 5-0.

Mackey Reed, Director of Public Affairs with the Preservation Foundation, was formally introduced and congratulated on her new role.

- B. [RESOLUTION NO. 148-2023 \(42:33\)](#): A Resolution Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Ratifying And Confirming The Determination Of The Landmarks Preservation Commission That The Property Known As 262 Sunset Ave Meets The Criteria set forth in Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach; And Designating Said Property As A Town Of Palm Beach Landmark Pursuant To Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach. *The property owner is opposed to this designation. The Landmarks Preservation Commission voted 7-0 for Landmarking.*

Ex parte communications were disclosed.

Friederike Mittner, Design & Preservation Manager, provided confirmation of publication.

Janet Murphy, MurphyStillings, provided historical information on the property and outlined how the property met Criteria 1 and 3 for Landmark Designation.

A motion was made by Council Member Cooney and was seconded by Council Member Araskog to make the designation report part of the record. The motion was carried unanimously, 5-0.

Jamie Crowley, the attorney on behalf of 262 Sunset Avenue, LLC, discussed the property's affiliation and its connection to the White Elephant. Mr. Crowley mentioned that significant efforts and expenses were invested in updating the White Elephant, but federal credits were not granted. The property at 262 Sunset Avenue, adjacent to the White Elephant, was legally nonconforming in a commercial zoning district where residential use was no longer allowed due to changes in street character

over time. Mr. Crowley criticized the landmarking procedure, stating that the property was considered for landmark designation without proper notification to the owner, and the meeting agenda lacked clarity and supporting documents. He argued that the property did not meet Landmark Criteria, referenced House Bill 423, and highlighted research findings by Eugene Pandula, indicating that the property did not meet the designation. Despite not typically challenging the Landmark Preservation Commission, Mr. Crowley asserted that this specific property did not warrant designation.

Eugene Pandula, representing the property owner, emphasized the significance of the Florida Master Site File Forms and the latest survey conducted by Environmental Services. The Florida Master Site File Forms, dating back to 1979, provided a historical perspective on the property, which initially received a low grade in 1979. Subsequent forms in 1997, 2004, and 2010 were completed by Dr. Day. Initially, Dr. Day suggested additional research and the potential for landmark status when the property was residential. However, Mr. Pandula explained that changes to the property, including the shift to commercial use, were necessary and rendered it ineligible for landmark designation. He asserted that, architecturally, the building did not meet the criteria for landmark status.

Mr. Crowley expressed concerns about time constraints affecting the Landmarks Preservation Commission's (LPC) decision-making process. He suggested that the rushed presentation and omission of facts during the LPC session might have influenced the unanimous vote. Additionally, Mr. Crowley pointed out that Mr. Pandula, who presented the case, has a history of involvement with LPC as a past Chairperson and has been practicing architecture in town since the late 1970s.

Friederike Mittner, Design and Preservation Manager for the Town of Palm Beach, expressed her belief that the evidence presented supported meeting Section 54-161 criteria. She emphasized the value of adapted use as a preservation practice, noting its widespread use across the country. Ms. Mittner suggested that the developer's request for additional parking and amenities could be fulfilled by adapting the front structure for amenities and accommodating additional parking at the rear of the site. She highlighted the challenges in obtaining national register designation, indicating that the difficulty in navigating the State's Historic Preservation Office indicated the building's significance.

Mr. Crowley argued that the building, being a commercial structure with no parking, posed challenges for proposing commercial use. He expressed concern that if the property were designated a landmark, it would remain a commercial building without available parking, highlighting the potential consequences of landmarking structures with insufficient parking space.

Aimee Sunny, Preservation Foundation of Palm Beach, provided professional analysis, explaining the Town of Palm Beach's process of preparing a list of potential properties before meetings. She indicated putting a property under consideration initiated an in-depth study and required changes to go before the Landmarks Preservation Commission. Ms. Sunny clarified the nature of the 2020 ESI Historic Site Survey Report, emphasizing its role as a preservation and planning tool rather than an exhaustive survey. She agreed that the building in question was deemed historic and contributory by the Historic State Preservation Office and the national

register keeper. Ms. Sunny believed the building met criteria one and three and urged the Town Council to designate it as such.

Amanda Skier, Preservation Foundation of Palm Beach, commended the Town of Palm Beach for having a skilled group of preservation experts. She expressed concern about the owners' testimony and arguments relying on consultants who worked under tight time constraints and on a budget. Ms. Skier suggested that more weight should be given to experts like Jane Day and MurphyStillings, who conducted exhaustive research for the national register nomination, affirming that the building was worthy of protection. She urged the Town Council to trust the assessments of the town's own preservation experts.

Mr. Crowley highlighted that the comprehensive plan specifically referenced historic site forms as the basis for selecting properties for consideration in the designation process. According to him, these resources were explicitly mentioned in the historic preservation element of the comprehensive plan as the foundation for designating properties.

Town Attorney Randolph addressed the legal allegation regarding placing the property under consideration and explained the town's long-standing practice of doing so without giving notice to the owner. He argued that there was no violation of due process because this action did not take away a property right; it simply required the owner to appear before the Landmarks Preservation Commission before any formal designation. Mr. Randolph pointed to explicit provisions under Section 54-164 detailing notice procedures and emphasized that, legally, he did not believe there had been any violation of due process in not notifying the property owner when the property was placed under consideration.

Mr. Randolph addressed another legal aspect related to the Landmark Preservation Commission hearing, acknowledging that the meeting was rushed, and the property owners were not afforded sufficient time to make their presentation.

Mr. Crowley contended that the argument was a change of position because before a property goes under consideration, there is a property right to demolish the building. He said a property may not be demolished once under consideration for landmark.

Council Member Araskog agreed that the property owner was not allotted adequate time to make their presentation to the Landmarks Preservation Commission. She suggested sending it back to Landmarks and allowing them to speak and have the commission vote again. She also asked Mr. Randolph to advise the Commission of the importance of listening and considering all the evidence if the application.

Mr. Randolph understood from the applicant there was an argument regarding a due process violation and thought they were not given reasonable opportunities as stated in the Code.

Mr. Crowley expressed hesitancy in sending the application back to the Landmarks Preservation Commission and wondered if they could weigh in on the issue without any bias.

Mr. Randolph said Mr. Crowley was not waiving his argument, and he felt it would

be futile to go back to LPC. If the applicant wished to pursue legal action, Mr. Crowley would still have that argument.

Council Member Cooney, Council President Pro Tem Lindsay, and Council President Zeidman believed the application should be remanded to the LPC and expressed the belief that LPC members would listen with an open mind upon receiving proper legal advice and counsel.

A motion was made by Council Member Araskog and was seconded by Council Member Cooney to remand Resolution No. 148-2023 back to the Landmarks Preservation Commission.

Council Member Araskog thought it was necessary for Mr. Randolph to meet with the Chair and Vice-Chair of LPC before the next hearing.

A motion was made by Council Member Araskog and was seconded by Council Member Cooney to amend the motion to remand Resolution No. 148-2023, 262 Sunset Avenue, to a date certain of January 17, 2024, back to LPC. The motion carried unanimously, 5-0.

Clerk's note: A short break was taken at 11:24 a.m. The meeting resumed at 11:41 a.m.

X. DEVELOPMENT REVIEWS

A. Appeals

1. [Administrative Appeal 1236 S Ocean Blvd./200 Emerald Beach Way \(1:57:43\):](#) Appeal of the decision of an administrative officer regarding a code enforcement case of a fence. The appellant cites zoning code Sections 134-141, 134-1666, and 134-1548 for this appeal.

Mr. Randolph advised the Town Council that this was not a de novo hearing; no testimony would be heard today. Only the applicant would present an argument.

Amanda Quirke Hand, attorney for the owner at 100 Emerald Beach Way, presented an appeal of an administrative decision concerning an unauthorized fence. The fence, not on an approved site plan and lacking a building permit, prompted a complaint in June 2023, leading to the dismissal of the subsequent Code Enforcement complaint. The undisputed facts revealed that a fence was erected close to the 100 Emerald Beach Way property without proper approval. M. Timothy Hanlon, representing Mr. and Mrs. Thornton, argued it was a temporary, permit-free fence from Amazon. Ms. Hand presented a photograph illustrating the fence, used as a dog pen, with grass growing around it. She emphasized its proximity to the front door of 100 Emerald Beach Way and its distance from the Thorntons' residence at 1236 S. Ocean Blvd. Ms. Hand argued the illegality of the fence, citing zoning regulations regarding fences.

Ms. Hand stated that the owners of 100 Emerald Beach Way respectfully requested that the town grant the appeal. She added that Mr. Bergman had determined that no permit was required for a temporary fence.

Mr. Hanlon argued that the appeal lacked evidence challenging the Code Enforcement Officer's decision to dismiss the complaint or asserting that the dog playpen qualified as a fence under the zoning code. He maintained that the

playpen was temporary and not a fence, originally located in the garage, and intended for a single, older dog. Mr. Hanlon clarified that the blue tarp mentioned in the presentation was used to block video cameras and a voice recording mechanism installed by neighbors, aimed at preserving privacy. He added that the property owner voluntarily invited Town staff and Code Enforcement personnel to inspect the small playpen once the appeal was raised.

Mr. Bergman stated that based on photographs and materials he had seen, he would not consider the structure a fence and would not require a building permit.

Council Member Araskog asked how a fence was defined in the Town Code, to which Attorney O'Connor responded it was not defined. Council Member Araskog asked Mr. Hanlon why a temporary fence had been in place for several years. Mr. Hanlon said it was because the Thorntons were using their yard as they were legally able to do.

Mayor Moore told the property owners they needed to work on a solution. She thought the situation was ridiculous. Council Member Cooney agreed.

Council President Zeidman pointed out the hours spent by staff and the Town Council on issues such as this and agreed with her fellow Town Council about the pettiness of this situation.

Council Member Araskog asked how long the fence had been in place and wondered why the Thorntons could not move the fence closer to their house to have a good relationship with their neighbors.

Mr. Hanlon said his client did not create this situation. He said the Thorntons bought the property for open space and were using it as such. He said the neighbors were only in town a short time each year and believed the appeal was filed out of spite.

A motion was made by Council Member Crampton and was seconded by Council Member Cooney to deny the appeal based upon the fact no credible evidence had been presented. The motion was carried 4-1, with Council Member Araskog dissenting.

Council President Pro Tem Lindsay thought there were communication issues between neighbors that should have been worked out.

Council Member Araskog asked the attorneys to strongly recommend that the Thorntons relocate the fence, and Council President Pro Tem Lindsay asked the attorneys to urge their clients to remove the surveillance equipment.

1. Old Business

- a. **ZON-23-068 (ARC-23-090) 206 CARIBBEAN RD (COMBO) - SITE PLAN REVIEW** The applicant, Walter Wick, has filed an application requesting Town Council review and approval for Site Plan Review to allow development of a new single-family residence on a platted nonconforming parcel deficient in lot width and lot area required in the R-B Zoning District. The Architectural Commission shall perform the design review component of the application.

Please note: This item was deferred to January 10, 2024, meeting at the Approval of the Agenda, Item VI.

- b. **ZON-23-084 (ARC-23-109) 600 TARPON WAY (COMBO) - SPECIAL EXCEPTION AND VARIANCES** The applicants, Frank and Annie Falk, have filed an application requesting Town Council review and approval for 7 variances, including (1-2) for building height plane reductions, (3- 6) to locate mechanical equipment within the front yard, (7) to exceed maximum site wall height within the front yard, and a Special Exception for reduced vehicular gate setbacks on a dead-end street, for the construction of a new two-story single-family residence over 10,000 SF and sitewide landscape and hardscape improvements. The Architectural Commission shall perform the design review component of the application.

Please note: This item was deferred to January 10, 2024, meeting at the Approval of the Agenda, Item VI.

2. New Business

- a. **ZON-23-077 (ARC-23-107) 162 E INLET DR (COMBO) - VARIANCE (2:28:12)** The applicants, David and Jill Shulman, have filed an application requesting Town Council review and approval for a variance to (1) exceed the maximum allowable Cubic Content Ratio (CCR) for the construction of enclosed additions and a rear awning to the single-family residence. The Architectural Commission shall perform the design review component of the application. *The Architectural Commission approved the design (5-2), and supported variances (7-0).*

Ex parte communications were disclosed.

Attorney M. Timothy Hanlon and Patrick Segraves, SKA Architect + Planner, were the professionals who presented the project.

Council President Zeidman thought the language on the agenda should reflect either ARCOM's or LPC's recommendation on the variances.

Council Member Cooney and Council President Pro Tem Lindsay thought the variance was a reasonable request, but it was a violation of the code, and there was no hardship was to justify further enlarging a structure that was already more than what was allowed.

Council President Zeidman asked for further clarification of the nonconformities that would be eliminated with approval of the variance. Mr. Hanlon explained that the swimming pool would be smaller, and landscaping would be increased at the rear of the property.

A motion was made by Council Member Araskog and was seconded by Council Member Cooney that Variance No. ZON-23-077, 162 E. Inlet Drive, be denied for reasons that the application does not meet the criteria set forth in 134-201(a), items 1, 2, 3, 5, 6, 7.

When asked, Mr. Hanlon stated there was no opportunity to make the

variance smaller.

Council Member Crampton thought the proposed project's impact was minimal, but he could not find a hardship to justify granting a variance.

The motion was carried unanimously, 5-0.

Clerk's note: Mayor Moore left the meeting at 12:37 p.m. and returned after the lunch break.

- b. **ZON-23-088 (ARC-23-120) 1600 S OCEAN BLVD (COMBO) - SITE PLAN REVIEW AND VARIANCES (2:59:28)** The applicant, PB Pavilion Trust (Michael Vineberg, Robert G. Simses and Peter Flanagan, Trustees), has filed an application requesting Town Council review and approval for site plan review for an addition to house a generator over 150kW, and (3) variances for (1) additional parapet height in the required north side yard setback and (2 – 3) to reduce the required north and south side yard setback in order to construct one-story additions to a previously approved two-story residence. The Architectural Commission shall perform design review of the application. *The Architectural Commission approved the design (7-0) and supported the variances (7-0).*

Ex parte communications were disclosed.

Attorney Maura Ziska and Harold Smith, Smith and Moore Architects, were the professionals who presented the project.

When asked if the parapet could be eliminated, Mr. Smith thought that would be a mistake.

Council President Zeidman said the project was beautiful, but she thought it could be symmetrical, eliminating the need for variance.

Mr. Smith showed the original proposal and explained the solution reached. The goal was to find a solution that would not interrupt the architecture of the structure.

A motion was made by Council Member Araskog that Variance No. ZON-23-088, 1600 S. Ocean Blvd., be denied for reasons that the application does not meet the criteria set forth in 134-201(a), items 1 through 7. The motion died for lack of a second.

A motion was made by Council Member Crampton and was seconded by Council President Zeidman that Variance No. ZON-23-088, 1600 S. Ocean Blvd., shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201 (a), items 1 through 7, have been met. The motion was carried 4-1, with Council Member Araskog dissenting.

A motion was made by Council Member Crampton and was seconded by Council President Pro Tem Lindsay that Site Plan No. ZON-23-088, 1600 S. Ocean Blvd., as said application meets the criteria set forth in sections 134-229 and 134-329, respectively, of the Town Code and finds that approval of the Site Plan will not adversely affect the public interest, that all zoning requirements governing the use have been met and that satisfactory provision and arrangement has been made concerning items (1) through (11) of section 134-329. The motion was carried unanimously, 5-0.

- c. **ZON-23-104 (ARC-23-137) 310 CLARKE AVE (COMBO)—VARIANCES** The applicant, Mark & Patricia Davies, has filed an application requesting Town Council review and approval for seven (7) Variances (1-2) to exceed maximum equipment screening wall heights in the east and west side-yards, (3) to exceed the maximum number of equipment in the west side-yard, (4-5) to locate A/C equipment closer than permitted to the east and west side property lines, (6) to locate a pool heater closer to the east side property line than permitted, (7) and to forgo the requirement to enclose pool equipment in a pump house enclosure. The Architectural Commission shall perform design review of the application.

Please note: This item was deferred to January 10, 2024, meeting at the Approval of the Agenda, Item VI.

- d. **ZON-23-105 (ARC-23-123) 1186 N OCEAN WAY (COMBO)—VARIANCES** The applicant, Martha Lee Johnson 2012 Exempt Trust (Stan Johnson), has filed an application requesting Town Council review and approval for (3) Variances: (1) for reduced rear setbacks for the installation of a pool heater, (2) for increased separation distance between the pool and the pool equipment, and (3) to exceed allowable chimney height, in conjunction with the construction of a new two-story single-family residence. The Architectural Commission will perform the design review component of the application.

Please note: This item was deferred to January 10, 2024, meeting at the Approval of the Agenda, Item VI.

- e. **ZON-23-106 (COA-23-038) 318 AUSTRALIAN AVE (COMBO) - VARIANCES (3:18:48)** The applicant, Combinat, LLC (Rep. Timothy Hanlon), has filed an application requesting Town Council review and approval for (1) Variance to exceed the maximum allowable lot coverage for the construction of a rear enclosed addition and pergola to an existing one-story landmarked structure. The Landmarks Preservation Commission shall conduct the design review portion of the application and shall decide on the floodplain variance and Historic Preservation Tax Abatement. *The Landmarks Preservation Commission approved the design (7-0), supported variance (7-0) and supported floodplain variance (7-0).*

Ex parte communications were disclosed.

Attorney M. Timothy Hanlon and Yiannis Varnava, Varnava Design Studio, were the professionals who presented the project.

When asked about making the terrace space permeable, Mr. Varnava said the landscaping was conforming, and the drainage system would be entirely updated.

Council Member Cooney added his support for the project.

When asked, Mr. Hanlon further explained the hardship of the request.

A motion was made by Council Member Cooney and was seconded by Council Member Araskog that Variance No. ZON-23-106, 318 Australian Avenue, shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201 (a), items 1 through 7, have been met. The motion was carried unanimously, 5-0.

- f. **ZON-23-109 (COA-23-040) 134 EL VEDADO RD (COMBO)—VARIANCE.** The applicants, Elizabeth and Jeffrey Leeds, have filed an application requesting Town Council review and approval for (1) Variance to provide vehicle queuing space deficient in depth between the driveway gate and edge of roadway. The Landmarks Preservation Commission shall perform a design review of the application. The applicants, Elizabeth and Jeffrey Leeds, have filed an application requesting Town Council review and approval for (1) Variance to provide vehicle queuing space deficient in depth between the driveway gate and edge of roadway. The Landmarks Preservation Commission shall perform a design review of the application.

Please note: This item was deferred to January 10, 2024, meeting at the Approval of the Agenda, Item VI.

- g. **ZON-23-111 (HSB-23-009) 269 PARK AVE (COMBO)—VARIANCES** The applicant, Schnapps 269 Park Avenue LLC (Andrew and Lorraine Dodge), has filed an application requesting Town Council review and approval for four (4) Variances to (1) expand an existing nonconforming 3rd story of an existing three-story historically significant building by adding four side rooftop dormer windows, (2) to exceed the maximum overall building height for the construction of four dormer windows, (3) to reduce the required side setback for the dormer windows and habitable terrace deck, and (4) to reduce the required front setback for a new entrance feature and habitable terrace deck. The Landmarks Preservation Commission shall conduct the design review portion of the application and shall decide on the floodplain variance.

Please note: This item was deferred to January 10, 2024, meeting at

the Approval of the Agenda, Item VI.

- h. **ZON-23-113 (ARC-23-145) 123 CHILEAN AVE (COMBO)—SPECIAL EXCEPTION AND VARIANCES** The applicant, Robert & Perri Bishop, has filed an application requesting Town Council review and approval for Special Exception to develop a parcel comprised of portions of platted lots which is deficient in minimum required lot width and lot area in the R-B district, and (3) Variances including (1 and 2) to reduce the required east and west side-yard setbacks and (3) to exceed the maximum permitted cubic content ratio (CCR) permitted, in conjunction with a new two-story single-family residence and one-story accessory cabana structure. The Architectural Commission shall perform design review of the application.

Please note: This item was deferred to January 10, 2024, meeting at the Approval of the Agenda, Item VI.

- i. **ZON-23-118 (ARC-23-140) 2278 IBIS ISLE RD (COMBO)—VARIANCE** The applicant, Angel Arroyo, has filed an application requesting Town Council review and approval for a Variance (1) to eliminate the required garage enclosure for two vehicles in the R-B district. The Architectural Commission shall perform design review of the application.

Please note: This item was deferred to January 10, 2024, meeting at the Approval of the Agenda, Item VI.

- j. **ZON-23-119 (ARC-23-146) 995 S OCEAN BLVD (COMBO)—VARIANCES** The applicant, Mary S. Conrad, has filed an application requesting Town Council review and approval for four (4) Variances to construct a second story addition on an existing single-family residence within the required (1-2) front yard setback, (3) within the required side yard setback, and (4) within the building height plane. The Architectural Commission shall perform design review of the application.

Please note: This item was deferred to January 10, 2024, meeting at the Approval of the Agenda, Item VI.

- k. **ZON-24-003 (COA-23-047) 340 ROYAL POINCIANA WAY (COMBO)—SPECIAL EXCEPTION AND VARIANCE (3:33:46)** The applicant, TUTTO MARE LLC and SIDNEY SPIEGEL, TRUSTEE OF TRUST #31520371 DATED OCTOBER 25, 1984, has filed an application requesting Town Council review and approval for (1) a Special Exception for a new restaurant within the Royal Poinciana Theatre building at the west side of The Royal Poinciana Plaza, (2) a Special Exception for outdoor café seating in association with the restaurant, and (1) a Variance to exceed the maximum height of rooftop kitchen equipment. The Landmarks Preservation Commission shall perform design review of the application.

Ex parte communications were disclosed.

Jamie Crowley, the attorney for the applicant, outlined the project, indicating a special exception request for 64 outdoor seats and a variance for rooftop equipment necessary for ventilation. He mentioned that the Town Council had previously reviewed the number of seats and the valet parking system. The applicant proposed an addition to a prior agreement, providing a new Declaration of Use Agreement. An amended 1979 agreement update was submitted due to two parking spaces being used for Marissa Collections expansion. Despite requesting 200 seats, the applicant sought to add 7 seats back, resulting in 50 seats. Mr. Crowley discussed a sound study conducted by an engineer, indicating that outdoor seating would comply with the Town's noise ordinance thresholds.

When asked, Mr. Crowley responded that the Declaration of Use Agreement was prepared by the town's attorney and staff.

Mr. Bergman discussed the one variance for the rooftop equipment.

Dominic Kozerski, Bonetti Kozerski Architecture, and Nelo Freijomel, Spina O'Rourke, were the design team for the project and made the presentation.

Council Member Araskog asked about the screening of the outdoor seating as well as the French Doors. Mr. Freijomel said the doors were the only exterior change being proposed.

Council Member Crampton asked about the operability of the windows to keep the interior rooms cooler, and if any feedback had been received from the residents in The Towers. Mr. Freijomel responded about the doors. Mr. Crowley said a letter had been received from the closest affected residents in The Towers, but no letter had been received from the board.

Mr. Freijomel said a two-part canopy would be retractable and open completely to let light and air into the space.

Samantha David noted that there had been communications with the neighbors, and they had been supportive.

Council President Pro Tem Lindsay asked about closing times and outdoor seating. She requested real vegetation be used and a letter of support be obtained from the homeowner's association of the adjacent condominium.

Ms. David said there were no public concerns, and also noted that the sound would travel west over the water rather than toward The Towers.

Council President Zeidman stated that since the new restaurant was considered a special exception, the Town Council would have to make sure everyone was protected from the sound.

Council Member Cooney did not think the Zoning in Progress pertaining to restaurant uses had ever been rescinded.

Council Member Crampton stated his support for the project.

Council Member Araskog sought details about the sound study and inquired if all residents in The Towers were notified, to which Mr.

Crowley provided affirmation. She questioned how "town serving" would be ensured. She expressed reservations about the hours of operation and suggested including provisions in the Declaration of Use to ensure dining only in the patio seating area. Additionally, she proposed a gradual approach to outdoor seating, with the Town Council having the right to decrease the number of outdoor seats in response to complaints. Mr. Crowley explained the process for handling noise complaints, involving fines and potential appearances before the Town Council if compliance was not achieved.

Council President Pro Tem Lindsay asked questions and sought clarification about the number of patrons accommodated in the space.

Mayor Moore requested to see the rendering of the terrace. She expressed less concern about the seating configuration and favored the retractable awning for sound mitigation. She emphasized the need for waterfront dining in Palm Beach and expressed confidence in Mr. Crowley's commitment to town-serving aspects. Mayor Moore suggested obtaining a letter of support from The Towers' President.

Council Member Crampton thought this proposal was elevated because it was in keeping with town traditions.

Council Member Araskog did not believe the Declaration of Use should run with the land. She also thought that if the owner were to change, the Declaration of Use would need to be re-negotiated.

Council Member Cooney asked for clarification in the staff memo regarding the 1979 agreement.

Ms. David introduced the restaurant owners, Gianpaolo and Gabby DeFelice.

Gianpaolo and Gabby DeFelice, the owners of Tutto Mare, indicated they had been in Palm Beach for 8 years and had previously owned a small restaurant in The Hamptons. The DeFelices discussed their history in owning restaurants and felt honored and excited to join the Palm Beach community. They indicated their cuisine would be Southern Mediterranean Cuisine.

Anne Pepper, 333 Seaspray Avenue, expressed concern about the town-serving aspect of the business and the potential for noise issues. She also asked about limiting events.

Some members thought it was a good idea to limit special events.

Council President Zeidman advised that the Town Council members review the Declaration of Use thoroughly so they could hold a discussion in January. Council President Zeidman confirmed that there would only be ambient music and that there would be no dance floor or no live music.

A motion was made by Council Member Crampton and was seconded by Council Member Cooney that Variance No. ZON-24-003 be granted and find in support thereof, that all of the criteria applicable to this application as set forth in Section 134-

201 (A), items 1 through 7 have been met and providing that the property owner did voluntarily commit that prior to the issuance of a building permit to either provide a recorded utility easement or an easement agreement satisfactory to the Town that ensures a recorded easement will be granted, if necessary, to underground utilities in the area and that the area must be screened.

Council Member Cooney noted that the type of equipment necessary for the roof was not allowed under the Town Code.

Council Member Araskog asked for a statement of the hardship. Mr. Crowley responded that the equipment that was designed and available to perform the function of the kitchen scrubber was not within the code parameters as written.

The motion was carried unanimously, 5-0.

A motion was made by Council Member Crampton and was seconded by Council President Pro Tem Lindsay to approve Special Exception No. ZON-24-003, indoor restaurant seating, as said application meets the criteria set forth in sections 134-229 and 134-329, respectively, of the Town Code and finding that approval of the Site Plan will not adversely affect the public interest, that all zoning requirements governing the use have been met and that satisfactory provision and arrangement has been made concerning items (1) through (11) of section 134-329, and approval is conditioned on approval of satisfactory details in the Declaration of use Agreement will return to the Town Council on January 10, 2024. The motion was carried unanimously, 5-0.

A motion was made by Council Member Crampton and was seconded by Council President Pro Tem Lindsay to approve Special Exception No. ZON-24-003, outdoor restaurant seating, as said application meets the criteria set forth in sections 134-229 and 134-329, respectively, of the Town Code and finding that approval of the Site Plan will not adversely affect the public interest, that all zoning requirements governing the use have been met and that satisfactory provision and arrangement has been made concerning items (1) through (11) of section 134-329, and approval is conditioned on approval of satisfactory details in the Declaration of use Agreement will return to the Town Council on January 10, 2024. The motion was carried 4-1, with Council Member Araskog dissenting.

It was the consensus of the Town Council to defer the Declaration of Use, as well as the 1979 Agreement changes, to the January 10, 2024, Town Council meeting.

XI. ORDINANCES

A. Second Reading

1. **[ORDINANCE NO 017-2023 \(5:17:25\)](#): An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 18,**

Buildings And Building Regulations, At Article IV, Florida Building Code, Section 18-232, Definitions, Section 18-235, Building Division; At Section 18-237, Agreed Maximum Time Schedule For Completion Of Major Construction, And By Adding Section 18-240, Town Council Building Permit Extension Fee; Providing For Severability; Providing For The Repeal Of Ordinances In Conflict; Providing For Codification; And Providing An Effective Date.

Director Bergman read Ordinance No. 017-2023 by title only.

A motion was made by Council Member Crampton and was seconded by Council Member Araskog to adopt Ordinance No. 017-2023 on the second reading. The motion was carried unanimously, 4-0.

Clerk's note: Council Member Cooney was not in the room during the vote.

B. First Reading

1. An Ordinance Amending Chapter 134, Zoning, to Allow Arcades and Colonnades Within Public Rights-Of-Way in the C-TS Zoning District

ORDINANCE NO. 008-2023: An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending Chapter 134, Zoning, Article VI, District Regulations, Division 8, C-TS Town-Serving Commercial District, Section 134-1114, Same-Exceptions, To Allow Arcades And Colonnades Within Public Rights- Of-Way; Providing For Severability; Providing For The Repeal Of Ordinances In Conflict; Providing For Codification; And Providing An Effective Date.

Please note: This item was deferred to January 10, 2024, meeting at the Approval of the Agenda, Item VI.

2. An Ordinance Amending Chapter 134, Zoning, to Allow Valet Only Parking Structures Ancillary to Existing Hotels in the R-C Zoning District

ORDINANCE NO. 024-2023: An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending Chapter 134, Article I., Section 134-2 Definitions And Rules Of Construction, To Create A Definition For Valet Only Garage; To Article VI, District Regulations, Division 5. R-C Medium Density Residential District, Section 134-945, Special Exception Uses; Section 134-948 Lot, Yard and Area Requirements, Section 134-955, And Off-Street Parking And Loading; To Allow Valet Only Parking Structures Existing Hotel; Providing For Severability; Providing For The Repeal Of Ordinances In Conflict; Providing For Codification; And Providing An Effective Date.

Please note: This item was withdrawn at the Approval of the Agenda, Item VI.

C. Time Extensions, Waivers, and Three-Strike Matters

1. [Waiver of Town Code Section 18-237, For Building Permit Extension for 334 Chilean Avenue \(5:18:53\)](#)

Wayne Bergman, Director of the Planning, Zoning and Building Department, described the building permit extension request.

Paul Courchene, President of Courchene Development Corp, explained the ongoing project and the reason for the extension request.

A motion was made by Council Member Cooney and was seconded by Council Member Araskog to approve the request as presented. The motion was carried unanimously, 5-0.

2. [Waiver of Town Code Section 18-237, For Building Permit Extension for 200 Bahama Lane \(5:22:15\)](#)

Wayne Bergman, Director of the Planning, Zoning and Building Department, described the building permit extension request.

Matt Courson, The Cury Group Inc., explained the ongoing project and the reason for the extension request.

A motion was made by Council Member Cooney and was seconded by Council Member Araskog to approve the request as presented. The motion was carried unanimously, 5-0.

3. [Waiver of Town Code Section 18-237, For Building Permit Extension for 2000 S Ocean Blvd. \(5:25:33\)](#)

Wayne Bergman, Director of the Planning, Zoning and Building Department, described the building permit extension.

Scott Houbert, CA Lindman of South Florida, LLC, explained details regarding the ongoing project and the reason for the extension request.

A motion was made by Council Member Araskog and was seconded by Council Member Crampton to approve the request as presented. The motion was carried unanimously, 5-0.

4. [Waiver of Town Code Section 18-237, For Building Permit Extension for 300 Seminole Avenue. \(5:28:44\)](#)

Wayne Bergman, Director of the Planning, Zoning and Building Department, described the building permit extension request until November 15, 2024.

Chet Davis, Davis General Contraction Corporation, explained details regarding the ongoing project and the reason for the extension request.

A motion was made by Council Member Araskog and was seconded by Council Member Crampton to approve the request as presented. The motion was carried unanimously, 5-0.

XII. [ANY OTHER MATTERS \(5:33:05\)](#)

Council Member Araskog requested legal advice on the text amendments coming forward

during the Code Reform project and a discussion on the coordination of Code, Planning and Zoning, and Public Works when there were issues.

Council President Pro Tem Lindsay and Council President Zeidman thought Mr. Blouin should be involved in the discussion as they knew departments had to work with the Town Manager to find a resolution.

XIII. [ADJOURNMENT \(5:38:20\)](#)

A motion was made by Council Member Araskog and seconded by Council Member Cooney to adjourn the meeting at 4:11 p.m. The motion was carried unanimously, 5-0.

APPROVED:

Margaret A. Zeidman, Town Council President

ATTEST:

Kelly Churney, Acting Town Clerk

Date: _____



TOWN OF PALM BEACH

MINUTES OF THE TOWN COUNCIL MEETING HELD ON TUESDAY, DECEMBER 12, 2023

I. CALL TO ORDER AND ROLL CALL

The Town Council Meeting was called to order at 9:30 a.m. On roll call, all council members were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Deputy Town Clerk Gayle-Gordon gave the Invocation and Council President Margaret A. Zeidman led the Pledge of Allegiance.

III. MODIFICATIONS TO THE AGENDA

The following modifications were made to the agenda:

- 1) Item No.X.C.1 Discussion Regarding Traffic Issues and Presentation of Mitigation Plans

TIME CERTAIN: 11:30 AM

Summary added to the backup.

- 2) Item No. X.C.2 Discussion Regarding Agreement for Legal Fees with Jones, Foster
Addition of RESOLUTION NO. 157-2023
- 3) Withdrawal of ORDINANCE NO. 023-2023

IV. APPROVAL OF AGENDA

Motion was made by Council Member Araskog and seconded by Council Member Crampton to approve the Agenda, as amended. On roll call, the Motion passed unanimously.

V. RECOGNITIONS

- A.** Recognition of Zachary Shipley for Service on the Underground Utilities Task Force
Danielle H. Moore, Mayor
- B.** Recognition of John B. McGowan, Jr. for Service on the Underground Utilities Task Force
Danielle H. Moore, Mayor
- C.** Recognition of Leslie Shaw for Service on the Underground Utilities Task Force
Danielle H. Moore, Mayor

Mayor Moore thanked all the retiring members of the Underground Utilities Task Force. She presented plaques of recognition to Zachary Shipley, John McGowan, Jr., and Leslie Shaw.

VI. COMMENTS OF MAYOR DANIELLE H. MOORE

Mayor Moore thanked the Police Department for holding a Safety Day on Saturday, December 9, 2023. She also expressed appreciation to the Police and Fire Foundation.

Mayor Moore recognized the following employees for their years of service to the Town:

Wayne Bergman, Director	(PZB)	5 years
Alex Vega, Sergeant	(PD)	5 years
David Watson, Lieutenant	(PD)	10 years
Fred Waymire, Sergeant	(PD)	10 years
Ryan Burgoon, Officer	(PD)	10 years
Dexter Munro, Equipment Op.1	(PW)	15 years
George Goatley, Water Res. Tech.	(PW)	15 years
Veronica Persaud, Accountant	(FIN)	10 years
Deborah Moody, Office Manager	(PZB)	25 years

Mayor Moore recognized the retirement of Mr. John “Skip” Randolph, Town Attorney. She said for the last 44 years, Mr. Randolph has served as the town attorney, providing legal counsel to forty-nine elected officials, seven mayors, six town managers, and countless staff members. She thanked Mr. Randolph for his incredible knowledge and devotion to the Town of Palm Beach. She stated he had consistently provided wise guidance.

Mr. Randolph advised Mayor Moore that his retirement was reluctant because of how much he had enjoyed serving the Town of Palm Beach. He thanked the town officials and Joanne O’Connor for stepping up to serve in the role of town attorney. He also thanked his wife and family for the support they have shown him during his years representing the town.

VII. COMMENTS OF TOWN COUNCIL MEMBERS

Council President Zeidman told Mr. Randolph that he had been an immeasurable help to her. She always felt that she could count on him for wise advice. She stated he had been a trusted and reliable friend.

Council President Pro Tem Lindsay stated her appreciation for Mr. Randolph. She said he had tremendous institutional knowledge, which has been so helpful in guiding the Town Council during their decision-making processes. She said he was a wonderful human being and had been

invaluable to the town. Council President Pro Tem Lindsay encouraged everyone to save the date of Monday, February 5, 2024, at 2:00 p.m. She stated that Dr. Ray Dorsey, the expert, and researcher on Parkinson's Disease, along with Dr. Bruce Lanphear, an accomplished Pediatric and Epidemiologist, will discuss toxic chemicals, pesticides, and the impact on children's health. She said the presentations would be live-streamed and recorded. She invited everyone to attend the presentations.

Council Member Crampton said hearing of Mr. Randolph's retirement was bittersweet. He said the town would miss Mr. Randolph, who was at the top of his profession and has been a good friend to everyone in town. He mentioned that in the November 26, 2023, issue of the Shiny Sheet, there was a letter written by former Mayor, Gail Coniglio, and ten other women. He read from the letter, "We have reached the critical crossroads to define our future. The delicate balance between progress and preserving our beloved Palm Beach, its beauty, small-time character, and elegance, will require thoughtful and managed growth." He said that Land Use Planners use the term *Carrying Capacity*, which relates to the sustainability of the environment or the community to oversee all that is presented. Council Member Crampton said he believed the town was at an inflection point. He said everyone would have to be more protective in the types of decisions being made for the town.

Council Member Araskog stated that Mr. Randolph's integrity and moral compass had led the way for everyone else to be moral and to have integrity. She thought Mr. Randolph had set an incredible example through his love for God, his love for his family, and his service to the Town of Palm Beach. She was admirable of Mr. Randolph's love for the community. Council Member Araskog stated the town was truly blessed to have been represented by Mr. Randolph. She thanked the town staff for their hard work every day. She also wished everyone, including residents, a Happy Hanukkah, a Merry Christmas, and a Happy New Year. She agreed with Council Member Crampton's comments about the letter he read. She believes the town is at a critical point, and she hopes there will be a new vision for the town with a comprehensive plan and new zoning code on the horizon. Lastly, Council Member Araskog apologized for the comments regarding Mrs. Ailes at a recent meeting. She said she has great respect for Mrs. Ailes and her integrity.

Council Member Cooney stated that Mr. Randolph had provided great guidance to him when he became active in local government. He said he would miss Mr. Randolph. He thanked him for his service.

Council President Zeidman mentioned the upcoming text amendments, and she requested education be provided relative to the procedure. She stated that the procedure is in the zoning code under amendments to the zoning code, Chapter 134, Article II, Division 5. She also said the Corradino Traffic Study is in draft form. She said the Town Council members could let staff know if they wanted to see the document. She stated that it would be important for staff to have an opportunity to read the study before a presentation to the Town Council.

VIII. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

Richard Sammons, 455 Worth Avenue, and a member of ARCOM, retroactively declared a conflict due to his working as a subcontractor for the Charette in February. He noted that he did indirectly work for the town and received compensation. Secondly, Mr. Sammons said one thing learned from the Charette was that in the North End RB district if a one-story home was built on a 10,000-square-foot lot, 1,000 square feet is left on the table. That inequity has caused every home to be two stories. He said limiting the second stories to fifty percent was thought to be a

good thing. While he agreed the town was under assault, he felt that a balance needed to be found between zoning, the RB, and development restrictions to the commercial core areas where there were already commercial streets. He felt this would allow for those things that give the town its character.

Council President Zeidman complemented ARCOM for the tremendous job they have done through working on the zoning code. She expressed concern with all the commercial projects being proposed in the town. She felt large projects could become regional destinations, in addition to being too large, too high, and monolithic in appearance. She said uses were allowed through the Special Exception process, and the council would review the list of Special Exception Uses.

Diane Buhler, Friends of Palm Beach, said this fall, with high seas and king tides, there has been an increase in medical waste on the beach. Microplastics are a more abundant reality than ever. She said since the summer refugee vessels have slowed, condominiums in the south end are installing bucket stands thanks to the help of the Citizens Association, and the contractor has eased clean-ups at the bridge by hiring image companies to clean. She informed the contractor that the Friends of Palm Beach would not remove the bags. She said the running total for trash removed from the beaches is over 33,000 pounds. A community clean-up is scheduled for this coming Saturday along Billionaire's Row.

Council Member Crampton referred to the southern bridge, where the plaque is located, two old billboards are dilapidated. He said the billboards are unsightly and should be removed. Mr. Brazil said he would contact FDOT. Council Member Cooney added that he had been asked to serve on the aesthetics committee for the southern bridge. He said the project has not been closed out. An updated landscaping plan had been put out to bid.

Council Member Araskog mentioned a thank you to the Police and Fire Foundation for Public Safety Day. She hopes an alert will be put out for future events because much new and valuable information was available to residents.

Mayor Moore recognized Mr. Doug Evans, Head of the Palm Beach Chamber of Commerce. She said he had done a remarkable job during his first year. She said the Chamber is a wonderful organization, and the Town's Employee of the Year will be announced on Monday, December 18, 2023.

IX. APPROVAL OF CONSENT AGENDA

Motion was made by Council Member Cooney and seconded by Council President Pro Tem Lindsay to approve the Consent Agenda, as amended. On roll call, the Motion passed unanimously.

A. MINUTES

1. Town Council Meeting Minutes
Kelly Churney, Acting Town Clerk
 - a. November 14, 2023, Town Council Meeting Minutes
 - b. November 15, 2023, Town Council Development Review Meeting Minutes
2. Approval of Major Matters Considered by the Architectural Review Commission at its Meeting of November 20, 2023

B. RESOLUTIONS

1. RESOLUTION NO. 151-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, approving an award to Coastal Protection Engineering LLC in a not-to-exceed amount of \$278,515 for professional services related to federal permitting of the Mid-Town Beach Nourishment Project.

Dean Mealy, Procurement and Contract Manager

2. RESOLUTION NO. 152-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, approving a retroactive payment authorization to the Municipal Public Safety Communications Consortium of Palm Beach County, LLC for annual membership dues in the amount of \$124,777.15.

Dean Mealy, Procurement and Contract Manager

3. RESOLUTION NO. 153-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, approving Police and Fire Departments radio replacement with Motorola Solutions utilizing the NASPO Value Point Cooperative Contract in the amount of \$1,479,388.91 for police radios, \$690,369.91 for fire radios and \$972,613 for dispatch consoles for a total price of \$3,092,371.82 which includes a \$50,000 trade-in allowance. Payment milestones will be \$2,061,581.21 upon issuance of contract and \$1,030,791.61 at final system acceptance no earlier than October 1, 2024.

*Dean Mealy, Procurement and Contract Manager – **Pulled and Heard as Item No. X.A.1***

4. RESOLUTION NO. 154-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, approving a purchase order to Kelly Tractor Company in the amount of \$357,400 and establishing a project budget of \$375,500 for the acquisition of a replacement Landfill Bulldozer.

Dean Mealy, Procurement and Contract Manager

5. RESOLUTION NO. 155-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, approving a purchase order to Kimley-Horn and Associates, Inc. for on-call consulting, permit compliance, sampling, and monitoring at the Skees Road and Okeechobee Boulevard Landfill Facilities in the annual amount of \$143,452 and establishing a project budget of \$160,000.

*Dean Mealy, Procurement and Contract Manager – **Pulled and Heard as Item No. X.A.2***

C. OTHER

1. Donation Acceptance from the Police and Fire Foundation
*Darrel Donatto, Fire Rescue Chief – **Pulled and Heard as Item No. X.A.3***
2. West Palm Beach Mobility Coalition
Bob Miracle, Deputy Town Manager -Finance and Administration
3. Permission to Close Country Club Road for Annual Inspection of the Delta-8 Stormwater Station and Permission to Close North Lake Way for Annual Inspection of Sanitary Sewer Stations Echo-1 & Echo-2

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

4. Recommending Dissolving the Underground Utilities Task Force

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

5. Authorization for 160 Royal Palm Way - Use of Right-of-Way During Season

*H. Paul Brazil, P.E., Director of Public Works – **Pulled and Heard as Item No. X.A.4***

X. REGULAR AGENDA

A. Matters Pulled from Consent Agenda: If needed

1. RESOLUTION NO. 153-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, approving Police and Fire Departments radio replacement with Motorola Solutions utilizing the NASPO Value Point Cooperative Contract in the amount of \$1,479,388.91 for police radios, \$690,369.91 for fire radios and \$972,613 for dispatch consoles for a total price of \$3,092,371.82 which includes a \$50,000 trade-in allowance. Payment milestones will be \$2,061,581.21 upon issuance of contract and \$1,030,791.61 at final system acceptance no earlier than October 1, 2024.

Dean Mealy, Procurement and Contract Manager

Council President Pro Tem Lindsay asked that staff explain the request because of the monetary amount of the purchase. Mr. Blouin explained that the request is for a 5-year contract for Police and Fire radios, and dispatch consoles. This is part of the town's membership with the Municipal Public Safety Communications Consortium of Palm Beach County, Inc. (MPSCC), and Member Municipalities. The Town of Palm Beach has been in this relationship since 2006.

Council Member Araskog asked what would happen if verifications failed. She noted existing fiber connectivity between police and fire which had not been verified, nor was guaranteed for specific bandwidth capacity. Andy Jadoo, Director of Information Technology, said anti-virus and fiber connectivity exist and are currently being used without issues. Council Member Araskog asked if additional costs would be associated with additional steps that need to be taken, as set forth in the contract. Mr. Jadoo said the consultants would be better able to answer these questions once they determine what additional things would be necessary to make the system operational. Council Member Araskog wanted to defer this item to next month. Bob Miracle said staff had been working with Motorola for several months and would like this item approved so a contract could be signed by the end of the calendar year. Council Member Araskog asked what any extra expenses might be for additional necessities listed within the contract. Captain William Rothrock, Police Department, said that staff had been testing Motorola's radios on the county system for several months, and the equipment had been working properly. He noted that Fire Rescue had some concerns about state laws and building connectivity, which had also prompted them to test the radios for the past two months. In addition to testing the radios, conversations with Motorola and their engineers had given staff great confidence that there would not be extraneous costs outside of what was quoted and secured by procurement. Mr. Blouin added that the town was previously on the Motorola system and will now be transitioning back to the system used by Palm Beach County and several other municipalities within the county.

Motion was made by Council President Pro Tem Lindsay and seconded by Council Member Crampton to approve Resolution No. 153-2023.

Council Member Crampton was interested in additional information about the warranty, training elements, and post-warranty services that would be necessary. Mr. Blouin responded that those details were incorporated into the contract.

On roll call, the Motion passed unanimously.

2. RESOLUTION NO. 155-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, approving a purchase order to Kimley-Horn and Associates, Inc. for on-call consulting, permit compliance, sampling, and monitoring at the Skees Road and Okeechobee Boulevard Landfill Facilities in the annual amount of \$143,452 and establishing a project budget of \$160,000.

Dean Mealy, Procurement and Contract Manager

Council Member Crampton asked for an update on the project. Mr. Blouin said there would be additional information on a future agenda. He said it would be costly for them to maintain the full bond, and the town staff believes it to be reasonable and fair to reduce the bond. That will be a Town Council decision, and staff will work with the Town Attorney to develop language for presentation to the council.

At this time Council Member Araskog requested a re-consideration of the Consent Agenda.

Motion was made by Council Member Araskog and seconded by Council Member Crampton to re-consider the Consent Agenda. On roll call, the Motion passed unanimously.

Motion was made by Council Member Araskog and seconded by Council Member Crampton to pull item no. IX.C.5. from the Consent Agenda. On roll call, the Motion passed unanimously.

Motion was made by Council Member Crampton and seconded by Council Member Cooney to approve Resolution No. 155-2023. On roll call, the Motion passed unanimously.

3. Donation Acceptance from the Police and Fire Foundation
Darrel Donatto, Fire Rescue Chief

Sean Baker, Assistant Fire Chief, said that the monies donated from the Police and Fire Foundation would be committed to the AED program, making Palm Beach a safer community. AEDs would be strategically placed throughout town to improve response rates for sudden cardiac arrest. He said the local businesses and residents would be trained in using the AED equipment. Council President Zeidman asked if the AED units would be available for purchase, and Assistant Chief Baker said yes. In addition, dispatchers would be prepared to direct people in need to the AED units.

Council Member Araskog asked if, when it comes to private homes and multi-family residences, the program would be first come, first serve. Mr. Blouin said this agenda item is for acceptance. The intent of the donation and details are still being

worked out with the foundation.

Council Member Cooney confirmed that the AED units would be placed in public gathering spaces in addition to private locations. He asked that staff ensure the Town Council sees the design for any free-standing AED units before installation.

Motion was made by Council Member Cooney and seconded by Council Member Araskog to approve acceptance of the donation from the Police and Fire Foundation. On roll call, the Motion passed unanimously.

4. Authorization for 160 Royal Palm Way – Use of Right-of-Way During Season
H. Paul Brazil, P.E., Director of Public Works

Council Member Araskog asked to hear from the Police Department about the loss of seven metered spaces. Mr. Brazil responded that this would be like Palm Beach Hotel where there is scaffolding and a work zone inside the scaffolding. He said pedestrians would walk around the scaffolding.

Motion was made by Council Member Cooney and seconded by Council Member Araskog to authorize the use of right-of-way during season for 160 Royal Palm Way. On roll call, the Motion passed unanimously.

B. Old Business

1. Town-Wide Undergrounding Project - Review of Project and Dashboard, Summary of Project Status
H. Paul Brazil, P.E., Director of Public Works

Patricia Strayer, Public Works, stated there was no additional information on moving forward with the undergrounding project. She said Phase III would be moving forward with conversions, and Phase V north and south would include energizing the underground network. Conversions in those areas have not begun. Phase VI north is significantly the construction and drilling, which have already exceeded 50 percent. Residents may feel the impacts of Phase IV south, as construction progresses. In dealing with Florida Power and Light (FPL) as far as trading out the streetlights, they would do so without delay or additional cost.

Council Member Cooney asked about lane closures on some of the main streets throughout town. Ms. Strayer said there was some minor drilling needed in Phase IV South. There should be nothing on County Road and little on Cocoanut Row. They are trying to tie in Phase IV equipment and as to Phase V on Royal Palm Way, they are working on the final splicing of switch cabinets to make it possible to energize. Unfortunately, manual splicing requires a lane for safety. Council Member Cooney asked about a section at the north end where the pavement had been completed, inquiring if reflectors would be installed. Ms. Strayer said replacements only include what was previously there. She said the reflectors would be installed after completion of the permanent striping.

Council Member Araskog asked about 52 of 117 easements, with 61% of the design completed. Ms. Strayer said Phase VIII is moving much slower than anticipated,

but a significant increase was being experienced since people were returning to the island for the season. Staff anticipates a significant increase during the next three months. Council Member Araskog thought it would be important for staff to check areas with old systems and conduits. She said there was some concern after the fire on El Vedado Road. Ms. Strayer responded that as to the specific issue with the fire in the conduit, she did not know what caused it but going in to physically check them could cause more damage to the older wires and conduits.

2. RESOLUTION NO. 156-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, approving additional funding to Kimley-Horn and Associates, LLC in the amount of \$50,000 for professional engineering on an as-needed basis related to the Water Supply Feasibility Study for a total award amount of \$666,380.

Dean Mealy, Procurement and Contract Manager

Mr. Brazil said staff has been working with Kimley-Horn on this water supply feasibility study for almost four (4) years. Kimley-Horn was selected through a competitive bidding process. The job was awarded in 2020 for \$316,000, and since then, the staff has recommended, and the Town Council has approved three change orders, each for \$100,000. The staff is at the point of initial negotiations with the two entities, and the project is where the staff had thought it would be. To secure the assistance of Kimley-Horn in the future, an additional Change Order would have to be approved in the amount of \$50,000. This would maintain their services through negotiations, for additional public meetings, and for any additional technical assistance that may be necessary, as a determination is being made about who will supply water to the town.

Motion was made by Council Member Cooney and seconded by Council Member Crampton to approve Resolution No. 156-2023. On roll call, the Motion passed unanimously.

3. Updated Comprehensive Parking Plan
Lew Crampton, Town Council Member

Council Member Crampton stated that the ride-share service, Rove, will not be implemented in town. The parting of ways was amicable, and they will be moving to another area to offer their services.

Lieutenant Paul Alber, Police Department, presented updates about parking stickers that had been sold and signage that had been installed. He shared some real-time data collected from the high-performing parking zones within the town. November 2023 over November 2022, there was a 67% increase in revenue generated in the 200 and 300 blocks of Peruvian Avenue. This data demonstrated that people were using paid parking areas quite a lot. Statistics provided were based on Transaction Type Breakdown, Device Breakdown, Parking Amount Distributions, and Parking Durations Breakdown. The data showed that people parked on Peruvian for quite a while. Lt. Alber said paid parking is working well in the business district. Significant data collection is underway from the 200 and 300 blocks of Peruvian Avenue, allowing staff to determine how each street performs in terms of the

parking program. This would allow for necessary adjustments to the program.

Council President Pro Tem Lindsay thought it was encouraging that people were adjusting to ParkMobile. She also thought the times that people were using paid parking were relevant. She mentioned that no additional signage would be installed. The existing signposts would be used for any new signage.

Council Member Araskog asked if patrons could extend past the paid parking time. Lt. Alber said a patron may not extend beyond 2 hours. The vehicles would have to relocate outside that zone to start a new parking period.

Council Member Cooney asked if data about the percentage of parking areas frequented by residents would be available. Robert Miracle, Deputy Town Manager – Finance and Administration, said that zip codes may be retrieved from the credit card payments for people paying for parking. Council Member Cooney asked if he could refer valet parking operators to Lt. Alber, who said yes.

At the corner of Brazilian and S. County Road, on the west side of the intersection, Council Member Cooney said there used to be one space, but up to three vehicles have been parked in that area. Lt. Alber was aware of the problem, and he said the Police Department would investigate it. He noted that there should be no parking spaces between the curb and the crosswalk to allow for visibility.

Council President Pro Tem Lindsay asked if the newly marked parking spaces were larger than before. Lt. Alber said no.

Council Member Cooney said on Southern Causeway Blvd., there was free two-hour parking. He asked if ParkMobile kiosks would be installed, and Mr. Miracle responded that was the plan.

Council President Pro Tem Lindsay asked if there was an opportunity for valet parking on Worth Avenue during the upcoming season. Mr. Blouin said that a year or so ago, an RFP was published for potential valet operations, but details could not be worked out. Recently, the owner of the Apollo parking lot was contacted about valet parking and offered a space on Worth Avenue with some signage for advertisement. He said the staff had tried and was still willing to collaborate with a partner. Lt. Alber stated that since the valet stand was previously located on Worth Avenue, the Police Department has more than doubled its presence along that street.

4. Landscape and Lawn Maintenance Request Earlier Start Time at 8:30 AM on Weekdays.

Margaret A. Zeidman, Town Council President

Colin Goldsmith, 2116 Bellcrest Court, Royal Palm Beach, FL, Botanica Landscaping spoke regarding the challenges faced by landscaping servicers. He said it is difficult to finish jobs with a 9:00 a.m. start time. He said an earlier start on maintenance would significantly improve their ability to get into town and help mitigate and ease congestion during morning hours.

Council President Zeidman noted that it may be to the advantage of the town and its residents to consider an earlier start time for landscape and lawn maintenance.

Council Member Araskog said she would only be okay with quiet work. She said one of the reasons the start time is 9:00 a.m. is because of the median age in the town.

Council Member Crampton felt that flexibility was important, and he was open to having the Ordinances, Rules & Standards Committee (ORS) look at the possibility of adjusting the start time and making a recommendation to the Town Council.

Council President Pro Tem Lindsay said that not every landscaper obeys the rules. She said she had spoken to several landscapers with electric blowers in their trucks but had chosen not to use them. After speaking with citizens' associations and owners of large estates, she thought the only area where the time could be adjusted would be on the island's south end. She noted that the gas leaf blowers, mowers, and hedge trimmers are loud pieces of equipment.

Mayor Moore was willing to return this request to ORS, but she did not think a new conclusion would be reached.

Council Member Cooney was willing to return this request to ORS for consideration. He said that, unfortunately, there will always be companies that do not follow the rules. He agreed that flexibility is important.

Council President Zeidman did not object to a half hour adjustment. She asked Mr. Goldsmith if he thought that he would be getting off the island earlier. Mr. Goldsmith said he thought a larger percentage of the box trucks would be off the island earlier although they would need to have a trial period. He thought there was potential to get some of his trucks off the island as early as 2:30 or 3:00 in the afternoon. Council President Zeidman was not ready to decide.

Council Member Crampton asked if there was an association of landscape professionals/organizations. He said peer intervention and traffic mitigation would motivate the Town Council to consider the requested change.

The consensus of the Town Council was to direct Mr. Goldsmith to return to next month's council meeting with confirmation of an Association of Landscape Professionals and a summary of actions to be accomplished by the association's members which would benefit the residents of the town.

Council Member Araskog asked to hear from the Police Department about morning traffic. Mayor Moore noted that day school students were dropped off between 7:30 and 8:00 a.m. and picked up between 2:45 and 3:05 p.m., and public school picks up between 1:45 and 2:15 p.m.

C. New Business

1. Discussion Regarding Traffic Issues and Presentation of Mitigation Plans

TIME CERTAIN: 11:30 AM

Council President Zeidman stated that on December 4, 2023, Police Chief Caristo, Major Scanlon, and Lt. Watson and herself met with the Secret Service, Mar-a-Lago Event Coordinator Niki Russell, and Harvey Oyer, Attorney, to discuss what went wrong during two recent occasions where traffic was at a standstill and best ways to mitigate the potential for this happening in the future. She said that Mr. Oyer would present a redlined version of the Declaration of Use in January, reflecting changes agreed upon during the meeting. She summarized the changes that would be more stringent, which included: (1) Between 3:00 and 6:00 p.m., Monday – Thursday, no events; (2) Friday evening dinner may be served at 6:00 p.m.; (3) Monday – Thursday, dinner must be served later than 6:00 p.m.; (4) Agreed to use the Bath & Tennis Club (B&T) Parking Lot for events over 250 guests and notify the Police Department in advance of every event, and whether the B&T has been reserved for them; and (5) Provide an alternate plan if the B&T Parking Lot is not available.

Chief Caristo stated that a compromise was reached due to the meeting with personnel at Mar-a-Lago, even though additional changes may be warranted. He said since the recent events, issues have been corrected, and that is what prompted the meeting. The Police Department would contact representatives of Mar-a-Lago, and any issues would be addressed immediately. Chief Caristo presented some statistics related to issues that cause traffic back-ups in the subject area. He said on average, there are 70,000 vehicles on the island per day.

Chief Caristo said last February, he and Mayor Moore drafted a letter to the US Coast Guard requesting delayed bridge openings during peak hours. They looked at the north bridge and agreed to delayed openings during peak hours on the Flagler Bridge beginning in August. Since no negative comments were received, Chief Caristo and Mayor Moore submitted another letter requesting delayed openings for the Southern and Royal Park bridges. In October, the US Coast Guard agreed to delayed openings on a trial basis. They informed the staff that they had submitted a Notice of Opposed Rulemaking, which would permanently allow for delayed openings of all three bridges. The Southern and Royal Park bridge changes would be implemented in January, 2024.

Chief Nicholas Caristo, PD, discussed five traffic issues and mitigation strategies under discussion, which included:

- Changes to roadways for safety: one way east on Sunset Avenue and right turn only from Brazilian onto South County Road.
- Pending change to the one hundred block of Barton Avenue to mitigate traffic backup on North County Road. The changes would go into effect on December 15, 2023.
- Flagler Memorial (North) bridge now opens once an hour during rush hour, and there is potential for the same on the Middle and Southern bridges.
- Synchronization of lights in Town and with West Palm Beach.

Daniel Fairbanks, 138 Chilean Avenue, spoke regarding traffic backups on South Ocean Boulevard.

Chief Caristo said the Town Council did produce a traffic management plan last May, and the plan is in place. There should be significant improvements in the coming year. Mr. Blouin emphasized that although staff is trying to mitigate traffic, there are going to be traffic issues on the island. He said there are always traffic problems that back up during rush hour. He pointed out that even with no events at Mar-a-Lago, there are still traffic issues.

Council President Zeidman said that having the bridge openings reduced during rush hour would make a difference. She also believed the concessions reached in the recent meeting would make a difference. Council President Zeidman noted that monitoring of the situation would still be necessary.

Jimmy Zisson, 3400 South Ocean Boulevard, remarked that he could not understand why more residents were not attending town council meetings. He said everyone understands that the traffic problems are complicated. He asked who is responsible for traffic management in Palm Beach.

Leslie Evans, 256 Worth Avenue, Suite 314, representing Dr. Jerry Lemoire and his wife, who live in the one hundred block of Clarke Avenue. He discussed the situation on Barton Avenue, where residents should have been notified in November when there was an article in the Shiny Sheet. He suggested that resident opinions be taken into consideration.

Bill Walde, 141 Barton Avenue, asked to see a comprehensive plan for the traffic issues. He requested that Chief Caristo give the residents in the 100-block information about what would happen, particularly with parking. Mr. Walde thought the traffic may be pushed down to South County and Royal Palm Way. He thought the impact should be evaluated by eliminating two-way traffic. He discussed scenarios that he asked Chief Caristo to consider with the proposed change in traffic pattern. Chief Caristo said that staff would monitor traffic, including car counters and speed measurements on all subsequent streets, including the one hundred block of Barton. The data collected would be reviewed with the goal being to minimize the impact on the town's residents. The objective is to move traffic, keeping traffic flow on the state roadways. Mr. Walde reiterated the importance of the town communicating with the residents on Barton Avenue.

Council President Zeidman expressed concern about vehicles traveling fast on Barton, in the middle of the block.

Council Member Crampton said Oleander Avenue, a very narrow street, needed to be added to the process. He has received correspondence from people who cannot get in and out of their driveways at times. Chief Caristo reported that in 2023, the number of citations issued is approaching fifty-sixty.

Council President Pro Tem Lindsay had noticed that residents routinely skip Barton Avenue because of the queue. She said everyone else fans out using Clark, Seabreeze, and Seaspray Avenues. She was concerned about taking Barton out of

the plan because everyone would be pushed to the other three streets. She suggested watching to see what happens if Barton is removed from the plan. She said one of the factors affecting Mar-a-Lago traffic was the construction projects on the ocean close to the north of Mar-a-Lago. She wondered if earlier start dates should be considered, to get the construction workers off the island earlier in the day. Council President Pro Tem Lindsay referred to the Breakers lights on South County. For traffic heading northbound and southbound, when one light turns, both lights turn. She asked if the vehicles would be open to waiting a little longer. She suggested during the review that Chief Caristo look at tweaking those lights to optimize the traffic flow.

Council Member Cooney acknowledged that the Mar-a-Lago Declaration of Use needed to be amended. He said his inclination was that the Town Council was going to sit with the plan for a full season to see how the proposed traffic management plan was working to accommodate traffic flow and stacking of vehicles.

2. Discussion Regarding Agreement for Legal Fees with Jones, Foster

RESOLUTION NO. 157-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Memorandum of Understanding and Agreement and Fee Agreement with Jones Foster, P.A.; Authorizing the Town Council President to Execute the Memorandum of Understanding and Agreement; Authorizing the Town Manager to Execute the Fee Agreement; Providing an Effective Date.

Margaret A. Zeidman, Town Council President

Council President Pro Tem Lindsay asked how long the proposal is good. Ms. O'Connor suggested CPI adjustments be incorporated into the agreement with Mr. Miracle's guidance.

Council President Zeidman asked Ms. O'Connor to explain her plan to educate her associates for the various boards and commissions. Ms. O'Connor had identified two associates who do similar work for other municipalities. During the next couple of months, she will accompany those associates to the meetings while getting to know everyone. The team will then meet, and she will be in close contact with Mr. Bergman throughout the process.

Anita Seltzer, 44 Cocconut Row, recognized and thanked Attorney Skip Randolph for his faithful service to the Town of Palm Beach. She expressed concerns about Ms. O'Connor not attending all the meetings. She was concerned about how information would be transferred from one board/commission to another.

Mayor Moore stated that as a caveat to the contract, Attorney O'Connor should attend any meetings of ARCOM or Landmarks Preservation Commission meetings pertaining to commercial projects. Ms. O'Connor agreed to attend.

Motion was made by Council Member Cooney and seconded by Council Member Crampton to approve Resolution No. 157-2023, and the agreement regarding legal fees being set for the next two (2) years after which returning to the Town Council for discussion of potential CPI increase. On roll call, the

Motion passed 4-0 with Council Member Araskog absent.

XI. ORDINANCES

A. Second Reading

1. Proposed Ordinance to Amend Chapter 46 of the Town Code Relative to Fire Prevention and Protection

ORDINANCE NO. 023-2023 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 46, Fire Prevention and Protection in Accordance with Florida Statute 633.202 and 633.208 the "Florida Fire Prevention Code" Adopted by the State of Florida Fire Marshall In Chapter 69A-60 Of the Florida Administrative Code with Local Amendments, National Fire Protection Association National Fire Code - N.F.P.A. 1, Florida Current Edition; And National Fire Protection Association Life Safety Code - N.F.P.A. 01, Florida Current Edition; Including Amendments To Sections 46-32, 46-33, 46-36, 46-66, 46-68, 46-69, 46-70, 46-71, 46-72, 46-73, 46-74, 46-75, 46-76, 46-77, 46-78, 46-80, And 46-82 All As Provided In Exhibit A Attached; Providing For Severability; Repealing All Ordinances Or Parts Of Ordinances In Conflict Herewith; Providing For Codification; And Providing For An Effective Date.

Darrel Donatto, Fire Rescue Chief

This item was withdrawn.

B. First Reading

1. Proposed Ordinance to Amend the Town's Equipment Replacement Fund

ORDINANCE NO. 027-2023 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, providing for an Amendment to the Town's Equipment Replacement Fund Adopted for the Fiscal Year Commencing October 1, 2023, and Providing an Effective Date.

Bob Miracle, Deputy Town Manager - Finance and Administration

Mr. Miracle explained the item and advised that this budget amendment would allow for the first installment payment for the police and fire radio equipment.

Council President Zeidman said that in February, there would be a tax and finance meeting to look at reserves with Mr. Miracle's guidance.

Motion was made by Council Member Crampton and seconded by Council President Pro Tem Lindsay to approve Ordinance No. 027-2023 on First Reading. On roll call, the Motion passed 4-0 with Council Member Araskog absent.

XII. ANY OTHER MATTERS

XIII. ADJOURNMENT

Motion was made by Council Member Cooney and seconded by Council Member Crampton to adjourn the Town Council Meeting of December 12, 2023, at 3:12 PM. On roll call, the Motion 4-0 with Council Member Araskog absent.

APPROVED:

Margaret A. Zeidman, Town Council President

ATTEST:

Pat Gayle-Gordon, Deputy Town Clerk

Date



TOWN OF PALM BEACH

Minutes of the Development Review

Town Council Meeting

Held on December 13, 2023

I. CALL TO ORDER AND ROLL CALL

The Development Review Town Council Meeting was called to order on December 13, 2023, at 9:31 a.m. On roll call, all elected officials were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Acting Town Clerk Churney gave the invocation. Council President Zeidman led the Pledge of Allegiance.

III. COMMENTS OF MAYOR DANIELLE H. MOORE

Mayor Moore did not have any comments.

IV. COMMENTS OF TOWN COUNCIL MEMBERS

The Town Council Members wished everyone a Merry Christmas, a Happy New Year, and a Happy Holidays.

Council President Zeidman recognized the Preservation Foundation of Palm Beach. She stated there was a new position, Director of Public Affairs, recently filled by Mackey Reed. She asked Amanda Skier, President and CEO of the Foundation, to talk about the new position and future changes in the foundation.

Amanda Skier stated that the foundation staff realized many changes were happening in town. They had been working to respond to the needs of the community and requests from members to be more involved in the town meetings. The Preservation Foundation Executive Committee was committed to advocacy and had created the Director of Public Affairs position to assist in keeping the foundation up to date on various goings on at Planning and Zoning, major commercial projects at the Architectural Commission (ARCOM), and conversations at Town Council meetings. She stated that Aimee Sunny, Director of Education, would assume the new title of Director of Preservation and Planning. Ms. Sunny would be dedicated to the Landmarks Preservation Commission (LPC) and advising on

other matters, including major commercial projects presented to ARCOM. She and Ms. Reed would be working closely. The Foundation was pleased to commit additional resources to help the Town Council guide the town through this critical period while preserving the town's character.

V. COMMUNICATIONS FROM CITIZENS – 3-MINUTE LIMIT, PLEASE

David Kelso, 255 Monterey Road, spoke about a demolition at 249 Monterey Road, followed by a huge, black 20' tall, 100' long construction screen on all four boundary lines of the property. At the time, Michael Peacock, the owner, did not have a permit. Code Enforcement did not inspect the site, and thirty days later, in August, under town ordinance, the fence should have been removed and the property sodded and irrigated until a building permit was issued and construction began. Code Enforcement did not inspect or cite the violation. Mr. Peacock should have been warned of non-compliance in September, but Code Enforcement did not inspect or cite the continuing violation. In October, with no building permit and the fence still in place, Mr. Peacock should have been sanctioned and fined for his continuing violation of town ordinances. Code Enforcement did not inspect, and no sanctions or fines were issued. In November, nothing had changed. On November 30, 2023, a building permit was issued. After Mr. Kelso called President Zeidman, he was informed that on December 11, 2023, Code Enforcement had finally inspected the site. Code Enforcement had advised Mr. Kelso that this violation would be discussed at their January meeting, but still no signs of construction. In the meantime, the residents who live on Monterey Road and some on Colonial Lane have had to live with the ugly construction site for six months, and the property owner has gotten away with knowingly flouting the town ordinances. Mr. Kelso had concluded that the current "real estate construction and development complex" had overwhelmed the town's administrative and supervisory capability. Property owners and the real estate design and construction complex know this and know they can game the system without any consequences. He asked how accountability would be enforced on the Code Enforcement division and how the Town Council would keep this type of scenario from recurring. Mr. Kelso asked the Council, "Can you understand why residents have lost confidence in your 'willingness' and 'ability' to protect their interests."

Council President Zeidman stated that the Town Council understood what was occurring on Monterey. She said that in response to what was going on, the Town tried to enact a Zoning in Progress while undergoing code review. She said the accusation that the Town Council did not understand was offensive and inappropriate. She said that every time Mr. Kelso had contacted anyone on the Town Council, he had received an appropriate response within the confines of the law. She could not agree more that the Code was flawed, but she said it must be noted that the Code was from 1979. She also wanted to avoid fingers being pointed toward the Town Council because of variances being granted. She said those variances must be given because of how the Code was written. She stated that the Town Council was doing its best to protect its residents. Council President Zeidman noted that this situation was presented to Mr. Bergman and the Town Council, and a determination was sought as to what the problems were with the ordinances or the process. She said issues were identified, and she agreed that the property was not sodded, irrigated, or adequately screened. She stated it was important for the accusations to stop, but more importantly, she wanted the Town Council and the Town Staff to respond in a helpful manner. She said a Zoning in Progress would have stopped some of the problems, but the town would also have been sued.

Mr. Bergman, Director of Planning Building and Zoning, stated that Mr. Kelso raised good

points that showed flaws between the various communications and departments. A demolition project involved the Planning, Zoning, and Building staff, but also Public Works for the staff that handles the right-of-way permits and Code Enforcement staff. He said that sometimes the Town could do a better job communicating between departments. The staff had worked on some changes and would like to present to the Town Council very quickly to close some loopholes in the demolition process. He said it was common for builders to demolish so they could begin construction immediately, alleviating the need to sod and irrigate the property. Other property owners need time between the demolition and when the construction project starts. He said the language in the code must be tightened up, and better coordination needs to be implemented between the town departments. Mr. Bergman said an internal policy may be put into place, but the ordinance would have to be amended by the Town Council.

Council Member Araskog commented that there had been challenges in finding people to check on the sites. She asked if the town needed to hire another person. She was not offended by Mr. Kelso's comments. Council Member Araskog said it was also a problem that when something was reported to Code Enforcement, it could take three months to get to a Code meeting. Until a case gets to Code Enforcement, neither the Town Council nor Code Enforcement can do anything about a violation because of the laws of due process. She felt bad for everyone being impacted by this situation. In addition, Council Member Araskog asked Mr. Bergman what was being done about getting construction site monitors on board. Mr. Bergman said he would have to check with Code staff and the Police Department to find out where they are in their hiring process for construction site monitors. Council Member Araskog thought a rush should be put on staffing the positions.

Council President Zeidman noted that part of the problem was the lack of qualified applicants to fill the code enforcement positions. As said before, she reiterated that since Monterey Road and Colonial back up to each other, they must be carefully monitored. President Zeidman expressed impatience with the lack of attention being paid to the residents of Monterey and specifically requested that this situation be remedied.

Council Member Crampton said residents were encouraged to let the Town Council know where things were not working. He said it did appear that the issue in this situation was execution. He thought that execution was the key. He said the staff engaged in this exercise needed to work to make the situation better, promptly. Council Member Crampton requested something in the council backup to show how Code Enforcement, Public Works, Planning Zoning and Building, and all other departments function together.

Anita Seltzer, 44 Coconut Row, stated that ARCOM was forced to consider a commercial project in February that required a special exception and variances. She said it was not in compliance with the comprehensive plan or Worth Avenue Guidelines. The commissioners sent the project back to the Town Council in its entirety so that they could properly review the architecture within their ordinance if and when the application was presented to them again. As a result of this and another application in May, the Town Council decided to require that commercial properties be presented to the council first for deliberation. Despite the fanfare, four town council members voted last month to send a commercial project to ARCOM with unresolved zoning issues, impacting the plan since it cannot be legally built as presented. ARCOM and the other commissions serve at the pleasure of the Town Council. The Council has authority, but that comes with responsibility. Ms. Seltzer felt there may be a disconnect between what the Town Council says and what it does. She said it was as if the council discussion in May had never taken place. All the boards and commissions need

to be properly supported and protected to deliberate properly within their ordinances. Ms. Seltzer said familiarity with the Codes, Comprehensive Plan, and Design Guidelines was crucial. Liking or not liking a project was not relevant. Residents should not continue to expend time, energy, and resources to ensure that proper review procedures are being followed. She said if the Town Council continued to disregard recommendations from legal counsel and staff to follow the rule of law, the whole town would likely be shouldering the cost of defending such actions in court. She asked that the Town Council be mindful of these things moving forward.

VI. APPROVAL OF AGENDA

Wayne Bergman, Director of Planning, Zoning and Building, offered the following modifications to the agenda:

Addition of Waiver of Town Code Section 18-237 For Building Permit Extension for 300 Seminole Avenue under C. 4. Time Extensions, Waivers, and Three-Strike Matters.

A reordering of the resolutions, hearing Resolution No. 149-2023 before Resolution No. 148-2023

A motion was made by Council Member Cooney and seconded by Council President Pro Tem Lindsay to approve the agenda as amended. The motion was carried unanimously, 5-0.

VII. CONSENT AGENDA

- A. **ZON-23-112 285 SUNRISE AVE—SPECIAL EXCEPTION AND VARIANCE** The applicant, Island Animal Hospital (Dr. Mary Ellen Scully), has filed an application requesting Town Council review and approval for a Special Exception for a permitted use greater than 3,000 SF in the C- TS zoning districts for a new veterinarian office and (1) Variance to allow a new veterinarian office on the ground floor in lieu of the use being located above the first floor.
- B. **ZON-23-122 400 ROYAL PALM WAY—SPECIAL EXCEPTIONS WITH SITE PLAN REVIEW AND VARIANCE** The applicant, Citizens BankNA, has filed an application requesting Town Council review and approval for a (1) Special Exception for a bank and (2) a Special Exception for a drive-thru facility and a Site Plan Review for a use greater than 2,000 SF in the C-OPI zoning district for third-floor bank in an existing four-story office building. Additionally, a Variance is being requested to not provide 6 additional parking spaces required as a change of use from office space to banking space.

Council Member Cooney was prepared to make a motion but acknowledged that sometimes fair criticism is leveled at the desk about the Town Council's approval of variances. He noted a variance in the consent agenda for 285 Sunrise Avenue. This variance was a perfect example of a flaw in the code where it prohibited a veterinarian's office on the first floor of a building and required it to be on the second floor while simultaneously allowing a dog grooming operation to be on the first floor, but not the second floor.

A motion was made by Council Member Cooney and seconded by Council Member Crampton to approve the consent agenda as amended, that the projects contained within the Consent Agenda meet the requirements of Chapter 134,

specifically Sections 134-326 through 134-330 for Site Plan Review, Section 134-229 for Special Exceptions, and Section 134-201 for Variances, and with the removal of ZON-24-012, 325 Via Linda from the approval. The motion was carried unanimously, 5-0.

- C. **ZON-24-012 325 VIA LINDA - VARIANCE** The applicant, Three Palm Trees LLC (Maura Ziska), has filed an application requesting Town Council review and approval for a Variance to exceed by the maximum width of a dock based on lotwidth.

Council Member Araskog asked about the width of the proposed dock.

Maura Ziska, the attorney for the owner, advised that the dock width would be forty-nine feet long and eight feet wide.

A motion was made by Council Member Crampton and seconded by Council President Pro Tem Lindsay that Variance No. ZON-24-012 shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201 (A), items 1 through 7, have been met. The motion was carried 4-1, with Council Member Araskog dissenting.

VIII. REGULAR BUSINESS

IX. RESOLUTIONS

- A. **RESOLUTION NO. 149-2023:** A Resolution Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Ratifying And Confirming The Determination Of The Landmarks Preservation Commission That The Property Known As 318 Australian Ave Meets The Criteria Set Forth In Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach; And Designating Said Property As A Town Of Palm Beach Landmark Pursuant To Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach.
The property owners are supportive of this designation. The Landmarks Preservation Commission voted 7-0 for Landmarking.

Council President Zeidman requested confirmation of proof of publication. Friederike Mittner, Design and Preservation Manager, provided confirmation.

Janet Murphy, MurphyStillings, presented background information on the project and historical information on the property. She outlined how the property met Criteria 1 and 3 for Landmark Designation. Ms. Stillings expressed appreciation to the owner for offering the home for landmark designation.

Ex-parte communications were disclosed by Council Member Cooney and Mayor Moore.

A motion was made by Council Member Cooney and was seconded by Council President Pro Tem Lindsay to make the designation report part of the record. The motion was carried unanimously, 5-0.

Council President Zeidman called for public comment.

Aimee Sunny, Preservation Foundation of Palm Beach, formally thanked the owner for their stewardship in bringing this property forward to be designated as a landmarked property. She encouraged the Town Council to support the renovation. She said variances would be requested and necessary for the property to be properly rehabilitated.

Council Member Cooney also thanked the owner for being willing to allow their property to be a landmarked structure. He said there have been some changes to state law, which will eliminate the town's ability to landmark properties absent the property owner's consent. He was delighted to have a property owner who recognized the importance of historic structures and the history of the built environment in the town.

A motion was made by Council Member Araskog and was seconded by Council Member Cooney to adopt Resolution 149-2023, designating the property at 318 Australian Avenue as a landmark of the Town of Palm Beach on the basis that it meets criteria Numbers 1 and 3 of Section 54-161 of the Town of Palm Beach Code and in the Landmarks Preservation Ordinance No. 2-84.

Council Member Cooney wondered if the town should require something in writing to formalize landmark designations since state law had changed. His concern was that future property owners may question whether the property was properly designated.

The motion was carried unanimously, 5-0.

Mackey Reed, Director of Public Affairs with the Palm Beach Preservation Foundation, was introduced and congratulated on her new role. Ms. Reed provided a short biography and said she looked forward to facilitating effective communication between all parties.

- B. RESOLUTION NO. 148-2023: A Resolution Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Ratifying And Confirming The Determination Of The Landmarks Preservation Commission That The Property Known As 262 Sunset Ave Meets The Criteria set forth in Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach; And Designating Said Property As A Town Of Palm Beach Landmark Pursuant To Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach. *The property owner is opposed to this designation. The Landmarks Preservation Commission voted 7-0 for Landmarking.**

Ex parte communications were disclosed by Council Members Araskog, Cooney, Council President Pro Tem Lindsay, Council President Zeidman, and Mayor Moore.

Council President Zeidman requested confirmation of proof of publication. Friederike Mittner, Design and Preservation Manager, provided confirmation.

Janet Murphy, MurphyStillings, presented background information on the project and historical information on the property. She outlined how the property met Criteria 1

and 3 for Landmark Designation.

A motion was made by Council Member Cooney and was seconded by Council Member Araskog to make the designation report part of the record. The motion was carried unanimously, 5-0.

Jamie Crowley, the attorney on behalf of 262 Sunset Avenue, LLC, stated that Stephen R. Karp, Founder and Chair of New England Development, was also present. Mr. Crowley said this property was affiliated with New England Development's ownership of the White Elephant. He said Eugene Pandula would also discuss changes that had occurred on the property over time and previous work done to analyze whether the property is eligible for designation. Mr. Crowley stated that hard work had been put into the White Elephant going through the local process to bring the building up to how it looked today. He added that millions of dollars were spent to update the White Elephant, and after the fact, they were not credited the federal credit. They received local ad valorem tax credits through the town program. Mr. Crowley said 262 Sunset was located adjacent to the White Elephant, and both buildings are legally nonconforming. He said this was a commercial zoning district where residential was not allowed. With respect to the street's character changing over time, residential was no longer an allowable use.

Mr. Crowley discussed the procedure for landmarking. He said the property was considered for landmarking only six months after purchase by the property owner. The property owner was not notified, and the agenda for the meeting where the property would be considered for landmark designation was unclear. He said that the agenda had no supporting documents attached. Mr. Crowley set forth the Landmark Criteria not met for the property to be designated. He spoke about House Bill 423 and stated that during the last designation season, all the properties considered were commercial. He said that based on research conducted by Mr. Pandula, the subject property did not meet the designation criteria. He noted that he had never challenged the Landmark Preservation Commission. However, they felt strongly that this particular property did not meet the criteria for designation.

Eugene Pandula, an architect representing the owner, stated he had attached more importance to the Florida Master Site File Forms and the last survey conducted by Environmental Services. He said the Florida Master Site File Forms had a history back to 1979 for the subject property. The first of which was done by a historic preservation consultant from Pittsburgh. The building was rated "D," the lowest possible grade then. The next three Florida Master Site File Forms were done in 1997, 2004, and 2010 by Dr. Day. Initially, Dr. Day said the building deserved additional research and could be a landmark in the town. That was before the zoning was changed, and the property was still residential. The changes when the property became commercial were necessary to support the change. He further explained the changes to the structure, making it ineligible to be landmarked. He said that architecturally, the building did not meet the landmark criteria.

Mr. Crowley said that the Landmarks Preservation Commission (LPC) was under time constraints due to scheduling, and therefore, the presentation at LPC was rushed, and many of the facts were eliminated. He felt this may have contributed to their unanimous vote. Mr. Crowley also noted that Mr. Pandula was a past Chairperson for the Landmarks Preservation Commission and has been a practicing architect in town

since the late 1970s.

Friederike Mittner, Design and Preservation Manager for the Town of Palm Beach said she thought the evidence that had been presented pointed toward the criteria in Section 54-161, which had been met. She stated that adapted use is one of the best practices in preservation and a rehabilitation tool used across the country. She thought the developer's request for additional space for parking and amenities could be achieved. She said the front structure was 2,958 square feet, a significant amount of square footage that could be adapted to use as amenities. She also thought additional parking could be accommodated at the rear of the site. She discussed the difficulty of getting through the State's Historic Preservation Office and getting a national register designation. She thought this spoke volumes about the status of the building.

Mr. Crowley said the building was a commercial structure with no parking. He said if they proposed a commercial use, there would be no parking available, and it would be another commercial building with no parking. He noted the consequences of landmarking buildings that had no space for parking.

Council President Zeidman called for public comment.

Aimee Sunny, Preservation Foundation of Palm Beach, offered professional analysis. She said it was the process in the Town of Palm Beach to prepare a list of potential properties, which was not published before the meeting. The process of putting a property under consideration sets in motion an in-depth study and temporarily requires changes to go before the Landmarks Preservation Commission. She said that when something could lead to a formal designation, there was proper notice, advertising, and due process that would be afforded to the property. Much of the argument against the designation relies on information from the 2020 ESI Historic Site Survey Report and the Florida Master Site File. She clarified what the ESI Historic Site Survey Report was intended to do. It is a preservation and planning tool, not an exhaustive survey. It was not in-depth, and they identified it as a comprehensive pedestrian survey. She agreed that it spoke volumes that this building was historic and to be contributed by the Historic State Preservation Office and the keeper of the national register. Regarding criteria one and three, she thought the building met both. She urged the Town Council to find that this building met the criteria for designation.

Amanda Skier, Preservation Foundation of Palm Beach, said the Town of Palm Beach had an incredible group of preservation experts working for it. Much of the owners' testimony and their argument relied on the work done by consultants who did their work in a very brief amount of time and on a budget. She said more weight should be given to Jane Day, who said it was potentially eligible, and to MurphyStillings, with the exhaustive research they did for the national register nomination in saying that this building was worthy of protection. She urged the Town Council to rely on the experts who work for the town.

Mr. Crowley mentioned that the comprehensive plan mentioned the historic site forms as the basis for what should be used to select a list of properties to be considered for designation. He said these resources were specifically cited in the historic preservation element of the comprehensive plan as the basis for what properties should be designated.

Town Attorney Randolph addressed the legal allegation regarding placing the property under consideration. He said the long-standing practice of the town had been to place a property under consideration without giving notice to the owner. Mr. Randolph said there was no violation of due process because a property right was not being taken away. It is just a temporary requirement for the owner to go before the Landmarks Preservation Commission before any designation. He said there were very explicit provisions under Section 54-164 relating to the notice procedures. He said several other provisions indicated the various requirements for notice during the designation process. Legally, Mr. Randolph advised that he did not believe there had been any violation of due process regarding the allegation that the property owner was not noticed when this property was placed under consideration.

Mr. Randolph mentioned another legal aspect regarding the hearing itself, related to the time they were given at the Landmark Preservation Commission hearing. He acknowledged that the meeting was rushed, and the property owners were not allowed adequate time to make their presentation.

Mr. Crowley said the argument was a change of position because before a property goes under consideration, there is a property right to demolish the building. He said a property may not be demolished once under consideration for landmark.

Council Member Araskog agreed that the property owner was not allotted adequate time to make their presentation to the Landmarks Preservation Commission. She wondered if that was a due process issue since their expert was not given time to speak. She said if that were an issue, she would suggest sending it back to Landmarks and allowing them to speak and have the commission vote again.

Mr. Randolph understood from the applicant that there was an argument regarding a due process violation as a result of not being able to be heard. Section 6, 54-164 said the Commission shall afford the owner of each affected property a reasonable opportunity to present testimony or documented evidence regarding the historic or architectural importance of such property. As argued, Mr. Randolph thought they were not given reasonable opportunities.

Mr. Crowley stated his hesitation in the Town Council sending this application back to the Landmarks Preservation Commission. He felt that the LPC members were comfortable in their unanimous vote based upon the assertions made without hearing a presentation from the applicant. His preference would be for the Town Council to address the substantive issue that the property does not meet the criteria, although he would rather have to go back to LPC than be designated.

Council Member Araskog asked Mr. Randolph to advise the Commission of the importance of listening and considering all the evidence if the application was sent back to LPC. She preferred to remand the application back to LPC.

Mr. Randolph said Mr. Crowley was not waiving his argument, and he felt it would be futile to go back to LPC. If the applicant wished to pursue legal action, Mr. Crowley would still have that argument.

Council Member Cooney stated he had not listened to or attended the LPC hearing, but he shared the belief that upon proper legal advice and counsel, the LPC members

would heed proper advice to hear this case with an open mind.

Council President Pro Tem Lindsay thought the application should be remanded to the LPC. She felt the members could listen with an open mind for reconsideration of their decision.

Council President Zeidman reiterated the two due process issues at hand. She thought this application should be remanded back to the LPC, given the time restraints under which they were working at the time of the original hearing.

A motion was made by Council Member Araskog and was seconded by Council Member Cooney to remand Resolution No. 148-2023 back to the Landmarks Preservation Commission due to a procedural issue. The motion was carried unanimously, 5-0.

Council Member Araskog thought it was necessary for Mr. Randolph to meet with the Chair and Vice-Chair of LPC before the next hearing. Mr. Randolph said the board was advised at the original hearing that they should not limit the applicant to three minutes for their presentation.

Mayor Moore stated she was disappointed that the LPC did not afford the applicant proper respect in allowing them to make their presentation in its entirety. She hoped this situation would not be occurring in the future.

A motion was made by Council Member Araskog and was seconded by Council Member Cooney to amend the motion to remand Resolution No. 148-2023, 262 Sunset Avenue, to a date certain of January 17, 2024, back the Landmarks Preservation Commission due to a procedural issue. The motion was carried unanimously, 5-0.

Clerk's note: A short break was taken at 11:24 a.m. The meeting resumed at 11:41 a.m.

X. DEVELOPMENT REVIEWS

A. Appeals

1. Administrative Appeal 1236 S Ocean Blvd./200 Emerald Beach Way: Appeal of the decision of an administrative officer regarding a code enforcement case of a fence. The appellant cites zoning code Sections 134-141, 134-1666, and 134-1548 for this appeal.

Mr. Randolph advised the Town Council that this was not a de novo hearing; no testimony would be heard today. Only the applicant would present an argument.

Amanda Quirke Hand, attorney for the owner at 100 Emerald Beach Way, presented the appeal of an administrative decision. The appeal was regarding a fence that was not on an approved site plan and did not have a building permit. The complaint was made originally in June 2023, and the Code Enforcement complaint was subsequently dismissed. The facts were undisputed. She said a fence was placed very close to the 100 Emerald Beach Way property. The complaint was that the fence was not on the governing site plan and was not permitted. The response by M. Timothy Hanlon, the

attorney representing Mr. and Mrs. Thornton, owners at 1236 S. Ocean Blvd., was that it was a temporary fence purchased from Amazon that did not require a permit. Ms. Hand presented a photograph that demonstrated grass growing up around the fence, which was used as a dog pen. She pointed out that the owners had constructed the fence for their dogs outdoors, immediately adjacent to the residence's front door at 100 Emerald Beach Way and as far as possible away from their own residence located at 1236 South Ocean Boulevard. Ms. Hand explained why the fence was illegal, citing zoning regulations regarding fences.

Ms. Hand stated that the owners of 100 Emerald Beach Way respectfully requested that the town grant the appeal.

Ms. Hand said that after she filed an appeal, Mr. Bergman had determined that no permit was required for a temporary fence. She stated she would submit that e-mail for the record.

Mr. Hanlon stated that the appeal presented no evidence indicating that the Code Enforcement Officer made an incorrect decision to dismiss the complaint or that the dog playpen constituted a fence under the zoning code. He stated the fence was a playpen and was temporary. The fence was originally located in the garage. He stated there was only one dog, mid-sized and ten years old. The playpen was not a fence; it was a temporary enclosure for dogs, and it could be quickly and easily moved from one location to another. He said the blue tarp referred to during the presentation was installed to block two video cameras and a voice recording mechanism installed by neighbors adjacent to the Thorntons property. The blue tarp was placed to preserve their privacy and prevent intrusion. Moreover, Mr. Hanlon said that once the property owner was alerted to the appeal, they voluntarily invited Town staff and Code Enforcement personnel to the residence to see the playpen, a very tiny enclosure.

Mr. Bergman stated that based on what he had seen in the photographs and materials, he would not consider the structure a fence, and requiring a building permit did not make sense.

Council Member Araskog asked how a fence was defined in the Town Code. Attorney O'Connor responded that it was not defined. Council Member Araskog asked Mr. Hanlon why a temporary fence had been in place for several years. Mr. Hanlon said it was because the Thorntons were using their yard. Council Member Araskog asked why the Thorntons had placed the fence far from their home. Mr. Hanlon said they had purchased the additional lot for an open space area for their dog.

Mayor Moore told the property owners they needed to work on a solution. She thought the situation was ridiculous.

Council Member Cooney agreed with Mayor Moore.

Council President Zeidman pointed out the hours spent by staff and the Town Council on issues such as this. She agreed with her fellow Town Council about the pettiness of this situation.

Council Member Araskog asked how long the fence had been in place. She said it looked like a fence and expressed her frustration. She asked why the Thorntons could not move the fence closer to their house to have a good relationship with their neighbors. Council Member Araskog voiced

frustration with the lack of sensibility and communication between the neighbors.

Mr. Hanlon said his client did not create this situation. He said the Thorntons bought the property for open space and were using it as such. He said the neighbors were only in town a short time each year and believed the appeal was filed out of spite.

A motion was made by Council Member Crampton and was seconded by Council Member Cooney to deny the appeal based upon the fact that no credible evidence had been presented. The motion was carried 4-1, with Council Member Araskog dissenting.

Council President Pro Tem Lindsay did not understand how the information provided was inconsistent. She thought there were communication issues that should have been worked out between neighbors.

Council Member Cooney asked Mr. Hanlon and Ms. Hand to give their clients the message that they should embrace kindness and use their boundless resources for good in the world. He said that Mayor Moore could help them find resources.

Council Member Araskog asked the attorneys to strongly recommend that the Thorntons relocate the fence.

Council President Pro Tem Lindsay suggested that the attorneys urge their clients to remove the surveillance equipment.

1. Old Business

- a. **ZON-23-068 (ARC-23-090) 206 CARIBBEAN RD (COMBO) - SITE PLAN REVIEW** The applicant, Walter Wick, has filed an application requesting Town Council review and approval for Site Plan Review to allow development of a new single-family residence on a platted nonconforming parcel deficient in lot width and lot area required in the R-B Zoning District. The Architectural Commission shall perform the design review component of the application.

Please note: This item was deferred to January 10, 2024, meeting at the Approval of the Agenda, Item VI.

- b. **ZON-23-084 (ARC-23-109) 600 TARPON WAY (COMBO) - SPECIAL EXCEPTION AND VARIANCES** The applicants, Frank and Annie Falk, have filed an application requesting Town Council review and approval for 7 variances, including (1-2) for building height plane reductions, (3- 6) to locate mechanical equipment within the front yard, (7) to exceed maximum site wall height within the front yard, and a Special Exception for reduced vehicular gate setbacks on a dead-end street, for the construction of a new two-story single-family residence over 10,000 SF and sitewide landscape and hardscape improvements. The Architectural Commission shall perform the design review component of the application.

Please note: This item was deferred to January 10, 2024, meeting at the Approval of the Agenda, Item VI.

2. New Business

- a. **ZON-23-077 (ARC-23-107) 162 E INLET DR (COMBO) - VARIANCE** The applicants, David and Jill Shulman, have filed an application requesting Town Council review and approval for a variance to (1) exceed the maximum allowable Cubic Content Ratio (CCR) for the construction of enclosed additions and a rear awning to the single-family residence. The Architectural Commission shall perform the design review component of the application. *The Architectural Commission approved the design (5-2), and supported variances (7-0).*

Ex parte communications were declared by Council Members Araskog and Cooney and Council President Zeidman.

M. Timothy Hanlon, an attorney for the owner, provided an overview of the project and explained the variance requested. He noted that the renovation would eliminate three existing nonconformities.

Patrick Segraves, SKA Architect + Planner, presented the architectural plans proposed for the additions and modifications to the existing residence.

Council President Zeidman explained that the language used may lead some to erroneously conclude that ARCOM and LPC approve variances. In fact, the language is clear in that it states that the “variances will not negatively affect the architecture.”

Council Member Cooney said the variance was a reasonable request, but it was a violation of the code, and he could not see what the hardship was to justify further enlarging a structure that was already more than what was allowed.

Council President Pro Tem Lindsay agreed with Council Member Cooney. She said the subject area of town already had many homes too large for their properties. She felt there was no hardship, and making the home larger was unnecessary when it was already one of many homes too large for its lot.

Council President Zeidman asked for further clarification of the nonconformities that would be eliminated with approval of the variance. Mr. Hanlon explained that the swimming pool would be smaller, and landscaping would be increased at the rear of the property.

A motion was made by Council Member Araskog and was seconded by Council Member Cooney that Variance No. ZON-23-077, 162 E. Inlet Drive, be denied for reasons that the application does not meet the criteria set forth in 134-201(a), items 1, 2, 3, 5, 6, 7.

Mayor Moore asked to see the proposed interior of the structure. Mr. Hanlon

showed visual aids and explained the proposed modifications compared to the existing structure.

Council President Pro Tem Lindsay asked if there was an opportunity to make the variance smaller. Mr. Hanlon said no.

Council President Zeidman asked about the home's square footage as it currently existed. Mr. Hanlon said the home was 4,974 square feet, and the lot was 10,484 square feet. He said the addition would be approximately 159 square feet.

Council Member Crampton thought the proposed project's impact was minimal, but he could not find a hardship to justify granting a variance.

The motion was carried unanimously, 5-0.

Clerk's note: Mayor Moore left the meeting at 12:37 p.m. and returned after the lunch break.

- b. **ZON-23-088 (ARC-23-120) 1600 S OCEAN BLVD (COMBO) - SITE PLAN REVIEW AND VARIANCES** The applicant, PB Pavilion Trust (Michael Vineberg, Robert G. Simses and Peter Flanagan, Trustees), has filed an application requesting Town Council review and approval for site plan review for an addition to house a generator over 150kW, and (3) variances for (1) additional parapet height in the required north side yard setback and (2 – 3) to reduce the required north and south side yard setback in order to construct one-story additions to a previously approved two-story residence. The Architectural Commission shall perform design review of the application. *The Architectural Commission approved the design (7-0) and supported the variances (7-0).*

Ex parte communications declared by Council Member Araskog and Council President Zeidman.

Maura Ziska, an attorney for the owner, provided an overview of the project and explained the variances requested.

Harold Smith, Smith and Moore Architects, presented the architectural plans proposed for the additions and modifications to the existing residence.

Council Member Araskog inquired about eliminating the parapet, but Mr. Smith thought that would be a mistake.

Council President Zeidman said the project was beautiful, but she thought it could be symmetrical, eliminating the need for variance.

Mr. Smith showed the original proposal and explained the solution reached. The goal was to find a solution that would not interrupt the architecture of

the structure.

A motion was made by Council Member Araskog that Variance No. ZON-23-088, 1600 S. Ocean Blvd., be denied for reasons that the application does not meet the criteria set forth in 134-201(a), items 1 through 7. The motion died for lack of a second.

A motion was made by Council Member Crampton and was seconded by Council President Zeidman that Variance No. ZON-23-088, 1600 S. Ocean Blvd., shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201 (a), items 1 through 7, have been met. The motion was carried 4-1, with Council Member Araskog dissenting.

A motion was made by Council Member Crampton and was seconded by Council President Pro Tem Lindsay that Site Plan No. ZON-23-088, 1600 S. Ocean Blvd., as said application meets the criteria set forth in sections 134-229 and 134-329, respectively, of the Town Code and finds that approval of the Site Plan will not adversely affect the public interest, that all zoning requirements governing the use have been met and that satisfactory provision and arrangement has been made concerning items (1) through (11) of section 134-329. The motion was carried unanimously, 5-0.

- c. **ZON-23-104 (ARC-23-137) 310 CLARKE AVE (COMBO)—VARIANCES** The applicant, Mark & Patricia Davies, has filed an application requesting Town Council review and approval for seven (7) Variances (1-2) to exceed maximum equipment screening wall heights in the east and west side-yards, (3) to exceed the maximum number of equipment in the west side-yard, (4-5) to locate A/C equipment closer than permitted to the east and west side property lines, (6) to locate a pool heater closer to the east side property line than permitted, (7) and to forgo the requirement to enclose pool equipment in a pump house enclosure. The Architectural Commission shall perform design review of the application.

Please note: This item was deferred to January 10, 2024, meeting at the Approval of the Agenda, Item VI.

- d. **ZON-23-105 (ARC-23-123) 1186 N OCEAN WAY (COMBO)—VARIANCES** The applicant, Martha Lee Johnson 2012 Exempt Trust (Stan Johnson), has filed an application requesting Town Council review and approval for (3) Variances: (1) for reduced rear setbacks for the installation of a pool heater, (2) for increased separation distance between the pool and the pool equipment, and (3) to exceed allowable chimney height, in conjunction with the construction of a new two-story single-family residence. The Architectural Commission will perform the design review component of the application.

Please note: This item was deferred to January 10, 2024, meeting at the Approval of the Agenda, Item VI.

- e. **ZON-23-106 (COA-23-038) 318 AUSTRALIAN AVE (COMBO) —VARIANCES** The applicant, Combinat, LLC (Rep. Timothy Hanlon), has filed an application requesting Town Council review and approval for (1) Variance to exceed the maximum allowable lot coverage for the construction of a rear enclosed addition and pergola to an existing one-story landmarked structure. The Landmarks Preservation Commission shall conduct the design review portion of the application and shall decide on the floodplain variance and Historic Preservation Tax Abatement. *The Landmarks Preservation Commission approved the design (7-0), supported variance (7-0) and supported floodplain variance (7-0).*

Ex parte communications declared by Council Member Cooney.

M. Timothy Hanlon, the owner's attorney, provided an overview of the project and explained the variance requested.

Yiannis Varnava, Varnava Design Studio, presented the architectural plans proposed for the modifications to the landmarked residence.

Council President Pro Tem Lindsay liked the pergola but asked if the terrace was permeable. She asked Ms. Ailes to consider making that space permeable to help with potential flooding. Mr. Varnava said the landscaping was conforming, and the drainage system would be entirely updated.

Council Member Cooney supported this project and was thankful to the owner for voluntarily designating the home. He noted the owner could have elected not to designate the home, and they could have complied with Town requirements with a much larger home. Instead, they were making a modest addition to a one-story home.

Council Member Araskog asked Mr. Hanlon to explain the hardship. He said the property was nonconforming, and the landmarked status created little to no flexibility to make the property conforming.

A motion was made by Council Member Cooney and was seconded by Council Member Araskog that Variance No. ZON-23-106, 318 Australian Avenue, shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201 (a), items 1 through 7, have been met. The motion was carried unanimously, 5-0.

- f. **ZON-23-109 (COA-23-040) 134 EL VEDADO RD (COMBO) —VARIANCE.** The applicants, Elizabeth and Jeffrey Leeds, have filed an application requesting Town Council review and approval

for (1) Variance to provide vehicle queuing space deficient in depth between the driveway gate and edge of roadway. The Landmarks Preservation Commission shall perform a design review of the application. The applicants, Elizabeth and Jeffrey Leeds, have filed an application requesting Town Council review and approval for (1) Variance to provide vehicle queuing space deficient in depth between the driveway gate and edge of roadway. The Landmarks Preservation Commission shall perform a design review of the application.

Please note: This item was deferred to January 10, 2024, meeting at the Approval of the Agenda, Item VI.

- g. **ZON-23-111 (HSB-23-009) 269 PARK AVE (COMBO)—VARIANCES** The applicant, Schnapps 269 Park Avenue LLC (Andrew and Lorraine Dodge), has filed an application requesting Town Council review and approval for four (4) Variances to (1) expand an existing nonconforming 3rd story of an existing three-story historically significant building by adding four side rooftop dormer windows, (2) to exceed the maximum overall building height for the construction of four dormer windows, (3) to reduce the required side setback for the dormer windows and habitable terrace deck, and (4) to reduce the required front setback for a new entrance feature and habitable terrace deck. The Landmarks Preservation Commission shall conduct the design review portion of the application and shall decide on the floodplain variance.

Please note: This item was deferred to January 10, 2024, meeting at the Approval of the Agenda, Item VI.

- h. **ZON-23-113 (ARC-23-145) 123 CHILEAN AVE (COMBO)—SPECIAL EXCEPTION AND VARIANCES** The applicant, Robert & Perri Bishop, has filed an application requesting Town Council review and approval for Special Exception to develop a parcel comprised of portions of platted lots which is deficient in minimum required lot width and lot area in the R-B district, and (3) Variances including (1 and 2) to reduce the required east and west side-yard setbacks and (3) to exceed the maximum permitted cubic content ratio (CCR) permitted, in conjunction with a new two-story single-family residence and one-story accessory cabana structure. The Architectural Commission shall perform design review of the application.

Please note: This item was deferred to January 10, 2024, meeting at the Approval of the Agenda, Item VI.

- i. **ZON-23-118 (ARC-23-140) 2278 IBIS ISLE RD (COMBO)—VARIANCE** The applicant, Angel Arroyo, has filed an application requesting Town Council review and approval for a Variance (1) to eliminate the required garage enclosure for two vehicles in the R-B district. The Architectural Commission shall perform design review of the application.

Please note: This item was deferred to January 10, 2024, meeting at the Approval of the Agenda, Item VI.

- j. **ZON-23-119 (ARC-23-146) 995 S OCEAN BLVD (COMBO)—VARIANCES** The applicant, Mary S. Conrad, has filed an application requesting Town Council review and approval for four (4) Variances to construct a second story addition on an existing single-family residence within the required (1-2) front yard setback, (3) within the required side yard setback, and (4) within the building height plane. The Architectural Commission shall perform design review of the application.

Please note: This item was deferred to January 10, 2024, meeting at the Approval of the Agenda, Item VI.

- k. **ZON-24-003 (COA-23-047) 340 ROYAL POINCIANA WAY (COMBO)—SPECIAL EXCEPTION AND VARIANCE** The applicant, TUTTO MARE LLC and SIDNEY SPIEGEL, TRUSTEE OF TRUST #31520371 DATED OCTOBER 25, 1984, has filed an application requesting Town Council review and approval for (1) a Special Exception for a new restaurant within the Royal Poinciana Theatre building at the west side of The Royal Poinciana Plaza, (2) a Special Exception for outdoor café seating in association with the restaurant, and (1) a Variance to exceed the maximum height of rooftop kitchen equipment. The Landmarks Preservation Commission shall perform design review of the application.

Ex parte communications disclosed by Council Members Araskog, Cooney, Crampton, Council President Zeidman, Council President Pro Tem Lindsay, and Mayor Moore.

Jamie Crowley, the attorney for the applicant, provided an overview of the project. He stated that a special exception was requested for 64 outdoor seats and a variance for rooftop equipment. He said the rooftop equipment variances were necessary for proper ventilation. He noted that the Town Council had already looked at the number of seats and the valet parking system. He said his client was proposing an addition from a prior agreement. A new Declaration of Use Agreement for the restaurant's operation has been provided to town staff. Mr. Crowley said he had submitted an amended 1979 agreement update because two parking spaces had been used for the Marissa Collections expansion. Since only 200 seats were requested, the applicant asked to add 7 seats back, which would result in 50 seats. He discussed the sound study, which was produced by a sound engineer. The study measured sound at the southwest corner of the property, which indicated that outdoor seating would be well below the thresholds of the Town's noise ordinance.

Council President Zeidman asked who checked off on the Declaration of Use. Mr. Crowley responded that the document was prepared by the town's attorney and staff.

Council Member Araskog asked which variances were being dealt with today, and Mr. Bergman said one variance for the rooftop equipment was being requested at this time.

Dominic Kozerski, Bonetti Kozerski Architecture, presented the conceptual renderings and walked the Town Council through the vision for the proposed restaurant.

Nelo Freijomel, Spina O'Rourke, presented the architectural plans for the proposed restaurant. He spoke about the exterior changes proposed to the originally approved project.

Council Member Araskog asked if all sides would be screened. Mr. Freijomel said there would be a screen on all sides. Council Member Araskog asked about the French Doors, which were being replaced with sliding doors. Mr. Freijomel said that change would be presented to the Landmarks Preservation Commission. He said the site plan was previously approved, and the doors were the only exterior change being proposed.

Council Member Crampton asked if the windows could be opened to keep the interior rooms cooler. Mr. Freijomel said the glass in the western section of the dining room was screened, and the north did not have any direct incoming light. Council Member Crampton asked if any feedback had been received from the residents in The Towers. Mr. Crowley said a letter had been received from the closest affected residents in The Towers, but no letter had been received from the board. Additionally, there had been dialogue with The Towers, and they had received no objections.

Mr. Freijomel said a two-part canopy would be retractable and open completely to let light and air into the space. That area was not counted in the sound study. The retractable awning was part of the original approval and was a two-layer system.

Samantha David noted that there had been communications with the neighbors, and they had been supportive.

Council President Pro Tem Lindsay asked about closing times and whether the outside seating area would be operational at the same times as the indoor seating. Mr. Crowley said yes, but the closure would be at 10:00 p.m. Council President Pro Tem Lindsay also confirmed that the outdoor seating area would be food service and not just a bar environment. She also wanted assurance that all vegetation would be living, not artificial. In addition, she asked that a letter of support be obtained from the homeowner's association of the adjacent condominium. She was concerned about how much the sound would carry.

Ms. David said there were no public concerns, and she thought the residents would have spoken up if they had concerns. She also noted that the sound would travel west over the water rather than toward The Towers.

Council President Zeidman recommended that as far as the special exception for a new restaurant, sound had to be a consideration. There was also a special exception for outdoor seating with a Declaration of Use. She said that in order to grant a special exception for the restaurant, the Town Council would have to make sure everyone was protected from the sound.

Council Member Cooney did not think the Zoning in Progress pertaining to restaurant uses had ever been rescinded.

Council Member Crampton stated his support for the project.

Council Member Araskog asked for details about the sound study. She also asked if everyone in The Towers was notified, and Mr. Crowley said everyone was notified as required. Council Member Araskog brought up regional destination restaurants, stating this would be the only restaurant on the water. She asked how “town serving” would be handled and wanted proof that the restaurant would be “town serving.” She also had some issues with the hours of operation and wanted something in the Declaration of Use that ensured dining only in the patio seating area. She also thought it might be a good idea to start the outdoor seating slowly by having fewer seats outside in the beginning, with incremental increases conditioned upon whether there were complaints. She wanted to make sure the Town Council would have a right to decrease the number of outdoor seats. Mr. Crowley explained how the process would work. He said if there was a verified noise complaint, the restaurant was fined, and then Mr. Bergman would determine the date by which the restaurant had to comply. If that did not happen, the applicant would appear before the Town Council to discuss the Declaration of Use within thirty days.

Council President Pro Tem Lindsay asked questions and sought clarification about the number of patrons accommodated in the space.

Mayor Moore said the size of the room was determined by the size of the mural. She asked to see the rendering of the terrace. Based on the configuration of the seating, she did not share the same concerns as others. She did like the retractable awning because it would provide sound mitigation. Mayor Moore asked how soon the restaurant was anticipated to open. Mr. Crowley thought by January 1, 2025. Mayor Moore thought this type of waterfront dining was needed in Palm Beach, and she knew Mr. Crowley would help with the town-serving aspects of the restaurant. Mayor Moore said she would also like to see a letter of support from the President of The Towers, but she recalled residents from The Sun and Surf arguing against the project as a point of history. She said there were always nuances to everything, and she thought the surrounding property owners had proven themselves to be people who would stand up for themselves.

Council Member Crampton was pleased with the applicant’s effort to carry out the feeling of a celebrity room. He thought this proposal was elevated because it was in keeping with town traditions and myths that would add to the attraction of the venue.

Council Member Araskog mentioned some opportunities for modifications to the Declaration of Use. She did not think it should run with the land. She also thought that if the owner were to change, the Declaration of Use would need to be re-negotiated.

Council Member Cooney asked for clarification in the staff memo regarding the 1979 agreement.

Ms. David said she had the privilege of working with Gianpaolo and Gabby DeFelice, as well as other well-known, extraordinary restaurant owners. She said the objective was to start the restaurant

with their best foot forward. She asked that Mr. and Mrs. DeFelice be given the benefit of the doubt that they have earned as indicated by their reputation.

Gianpaolo and Gabby DeFelice, the owners of Tutto Mare, indicated they had been in Palm Beach for 8 years and had previously owned a small restaurant in The Hamptons. Ms. DeFelice said it was not always about creating a restaurant but about being part of the community and giving back. She was excited about being part of the Palm Beach community. Mr. DeFelice presented some history of his and Ms. DeFelice's history as restaurant owners. He said they are honored and excited to join the Palm Beach community. Ms. DeFelice said their cuisine would be seafood, which would include freshly caught fish, featuring Southern Mediterranean Cuisine.

Council President Zeidman called for public comment.

Anne Pepper, 333 Seaspray Avenue, asked how the town-serving aspect of the business would be enforced. She asked the Town Council to consider strengthening the Code Enforcement violation restrictions to make it more important for businesses to follow the law and their Declarations of Use. She also spoke about the potential for noise and acoustics that should be considered. She also asked about limiting events.

Council Member Araskog thought it was a good idea to investigate limiting special events. Council Member Cooney said he had mentioned this during the original approval and was unsuccessful.

Council President Zeidman advised that the Town Council members review the Declaration of Use thoroughly to discuss it in January and amend it as necessary. She asked about the doors on the south side of the structure. Mr. Freijomel said they were French doors that entered a vestibule space between the exterior and the celebrity room. Council President Zeidman also confirmed that there would only be ambient music and that there would be no dance floor or no live music.

A motion was made by Council Member Crampton and was seconded by Council Member Cooney that Variance No. ZON-24-003 be granted and find in support thereof that all of the criteria applicable to this application as set forth in Section 134-201 (A), items 1 through 7 have been met and providing that the property owner did voluntarily commit that prior to the issuance of a building permit to either provide a recorded utility easement or an easement agreement satisfactory to the Town that ensures a recorded easement will be granted, if necessary, to underground utilities in the area and that the area must be screened.

Council Member Cooney noted that the type of equipment necessary for the roof was not allowed under the Town Code.

Council Member Araskog asked for a statement of the hardship. Mr. Crowley responded that the equipment that was designed and available to perform the function of the kitchen scrubber was not within the code parameters as written.

The motion was carried unanimously, 5-0.

A motion was made by Council Member Crampton and was seconded by Council President Pro Tem Lindsay to approve Special Exception No. ZON-24-003, indoor restaurant seating, as said application, meets the criteria set forth in sections 134-229 and 134-329, respectively, of the Town Code and finding that approval of the Site Plan will not adversely affect the public interest, that all zoning requirements governing the use have been met and that satisfactory provision and arrangement has been made concerning items (1) through (11) of section 134-329, and approval is conditioned on approval of satisfactory details in the Declaration of use Agreement will return to the Town Council on January 10, 2024. The motion was carried unanimously, 5-0.

A motion was made by Council Member Crampton and was seconded by Council President Pro Tem Lindsay to approve Special Exception No. ZON-24-003, outdoor restaurant seating, as said application, meets the criteria set forth in sections 134-229 and 134-329, respectively, of the Town Code and finding that approval of the Site Plan will not adversely affect the public interest, that all zoning requirements governing the use have been met and that satisfactory provision and arrangement has been made concerning items (1) through (11) of section 134-329, and approval is conditioned on approval of satisfactory details in the Declaration of use Agreement will return to the Town Council on January 10, 2024. The motion carried 4-1, with Council Member Araskog dissenting.

It was the consensus of the Town Council to defer the Declaration of Use, as well as the 1979 Agreement changes, to the Town Council meeting on January 10, 2024.

XI. ORDINANCES

A. Second Reading

1. **ORDINANCE NO 017-2023:** An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 18, Buildings And Building Regulations, At Article IV, Florida Building Code, Section 18-232, Definitions, Section 18-235, Building Division; At Section 18-237, Agreed Maximum Time Schedule For Completion Of Major Construction, And By Adding Section 18-240, Town Council Building Permit Extension Fee; Providing For Severability; Providing For The Repeal Of Ordinances In Conflict; Providing For Codification; And Providing An Effective Date.

Director Bergman read Ordinance No. 017-2023 by title only.

A motion was made by Council Member Crampton and was seconded by Council Member Araskog to adopt Ordinance No. 017-2023 on the second reading. The motion was carried unanimously, 4-0.

Clerk's note: Council Member Cooney was not in the room during the vote.

B. First Reading

1. An Ordinance Amending Chapter 134, Zoning, to Allow Arcades and Colonnades Within Public Rights-Of-Way in the C-TS Zoning District

ORDINANCE NO. 008-2023: An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending Chapter 134, Zoning, Article VI, District Regulations, Division 8, C-TS Town-Serving Commercial District, Section 134-1114, Same-Exceptions, To Allow Arcades And Colonnades Within Public Rights- Of-Way; Providing For Severability; Providing For The Repeal Of Ordinances In Conflict; Providing For Codification; And Providing An Effective Date.

Please note: This item was deferred to January 10, 2024, meeting at the Approval of the Agenda, Item VI.

2. An Ordinance Amending Chapter 134, Zoning, to Allow Valet Only Parking Structures Ancillary to Existing Hotels in the R-C Zoning District

ORDINANCE NO. 024-2023: An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending Chapter 134, Article I., Section 134-2 Definitions And Rules Of Construction, To Create A Definition For Valet Only Garage; To Article VI, District Regulations, Division 5. R-C Medium Density Residential District, Section 134-945, Special Exception Uses; Section 134-948 Lot, Yard and Area Requirements, Section 134-955, And Off-Street Parking And Loading; To Allow Valet Only Parking Structures Existing Hotel; Providing For Severability; Providing For The Repeal Of Ordinances In Conflict; Providing For Codification; And Providing An Effective Date.

Please note: This item was withdrawn at the Approval of the Agenda, Item VI.

C. Time Extensions, Waivers, and Three-Strike Matters

1. Waiver of Town Code Section 18-237, For Building Permit Extension for 334 Chilean Avenue

Wayne Bergman, Director of the Planning, Zoning and Building Department, described the building permit extension request.

Paul Courchene, President of Courchene Development Corp, explained the ongoing project and the reason for the extension request to complete the work. He said the original permit was pulled by a different builder in 2022. In the interim, the homeowner hired Courchene Development Corp to build their home. Upon entering a contract, the homeowner changed the home and the foundation. He said the house had been under construction, and the job had moved quickly, although additional time was necessary to finish the home. New permits were obtained in April 2023.

A motion was made by Council Member Cooney and was seconded by

Council Member Araskog to approve the request as presented. The motion was carried unanimously, 5-0.

2. Waiver of Town Code Section 18-237, For Building Permit Extension for 200 Bahama Lane

Wayne Bergman, Director of the Planning, Zoning and Building Department, described the building permit extension request.

Matt Courson, The Cury Group Inc., explained the ongoing project and the reason for the extension request to complete the work. Mr. Courson explained the details, causing a delay in the project. There was a pause in construction while some changes were made, and this contributed to the delay in completing the project sooner.

A motion was made by Council Member Cooney and was seconded by Council Member Araskog to approve the request as presented. The motion was carried unanimously, 5-0.

3. Waiver of Town Code Section 18-237, For Building Permit Extension for 2000 S Ocean Blvd.

Wayne Bergman, Director of the Planning, Zoning and Building Department, described the building permit extension.

Scott Houbert, CA Lindman of South Florida, LLC, explained details regarding the ongoing project and the reason for the extension request to complete the work.

A motion was made by Council Member Araskog and was seconded by Council Member Crampton to approve the request as presented. The motion was carried unanimously, 5-0.

4. Waiver of Town Code Section 18-237, For Building Permit Extension for 300 Seminole Avenue.

Wayne Bergman, Director of the Planning, Zoning and Building Department, described the building permit extension request until November 15, 2024.

Chet Davis, Davis General Contraction Corporation, explained details regarding the ongoing project and the reason for the extension request to complete the work.

A motion was made by Council Member Araskog and was seconded by Council Member Crampton to approve the request as presented. The motion was carried unanimously, 5-0.

XII. ANY OTHER MATTERS

Council Member Araskog requested legal advice on the text amendments coming forward during the Code Reform project.

Council Member Araskog requested a discussion on what could be done to better the process regarding issues where Code, Planning and Zoning, and Public Works were not communicating effectively.

Mr. Bergman stated he heard the conversation earlier in the meeting. Better communication would be great, but everyone had rules that must be followed within their departments. He offered to have internal conversations to develop solutions that may be presented to the Town Council.

Council President Pro Tem Lindsay, having gone through demolition and rebuild, stated that coordination between departments seemed vulnerable. She supported having Mr. Bergman meet with the other directors and Mr. Blouin to reach a solution for presentation to the Town Council.

Council President Zeidman said Mr. Blouin must be involved because all the departments reported to the Town Manager. She commended the staff for working hard on all issues; she said she had never seen a harder working group. She did not want the staff to feel bad; she knew they would work with the Town Manager to find a resolution. Coordination between different departments could only come from the top down.

Everyone wished each other, staff, visitors, and residents a Merry Christmas, Happy Hanukkah, and Happy New Year.

XIII. ADJOURNMENT

A motion was made by Council Member Araskog and seconded by Council Member Cooney to adjourn the meeting at 4:11 p.m. The motion was carried unanimously, 5-0.

APPROVED:

Margaret A. Zeidman, Town Council President

ATTEST:

Kelly Churney, Acting Town Clerk
Date: _____

TOWN OF PALM BEACH

Information for Town Council Meeting on: November 14, 2023

To: Mayor and Town Council

Via: Kirk W. Blouin, Town Manager

Via: Carolyn Stone, Deputy Town Manager

Via: Jess Savidge, Administrative Manager

From: Kelly Churney, Acting Town Clerk

Re: Discussion Regarding Town Council Meeting Minutes

Date: November 8, 2023

Staff prepared this memorandum and accompanying exhibits to provide the information and data to enhance the agenda discussion on Town Council Meeting minutes.

In addition to internal data quantifying the Town's public and Town Council meetings (Exhibit A), a survey through the Florida Association of City Clerks (FACC) membership was conducted with a robust response of 46, including 22 Palm Beach County municipalities contributing. The survey sought responses to which format of minutes are used, how many public meetings are held, audio and timestamping capabilities, and the number of staff. See the attached summary table (Exhibit B) is provided for details of the summaries included below:

Statewide municipality minutes:

8 municipalities (17%) use 'action only' minutes (example attached as Exhibit C)

24 municipalities (52%) use 'summary' minutes (example attached as Exhibit D)

12 municipalities (26%) use 'hybrid summary' minutes (example attached as Exhibit E)

1 municipality (2%) uses 'transcript' minutes (example attached as Exhibit F)

● Full transcripts	1
● Summary	24
● Hybrid summary	13
● Action only	10



Palm Beach County municipality minutes extracted:

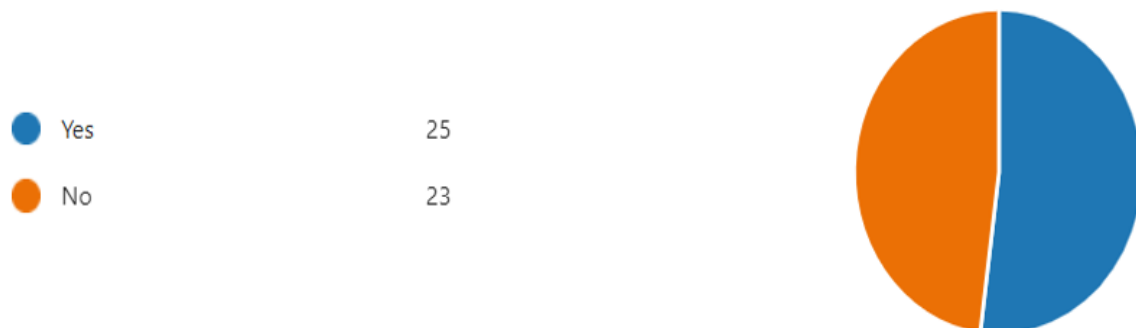
Six municipalities (27%) use 'action only' minutes (example attached as Exhibit C)

Ten municipalities (45%) use ‘summary’ minutes (example attached as Exhibit D)
 Five municipalities (22%) use ‘hybrid summary’ minutes (example attached as Exhibit E)
 One municipality (4%) uses ‘transcript’ minutes (example attached as Exhibit F)

Timestamped recordings:

25 municipalities statewide (50%) have recordings that are timestamped.
 23 municipalities statewide (50%) do not have timestamped recordings.

Twelve PBC municipalities (55%) have recordings that are timestamped.
 Ten PBC municipalities (45%) do not have timestamped recordings.



Audio included in minutes, statewide:

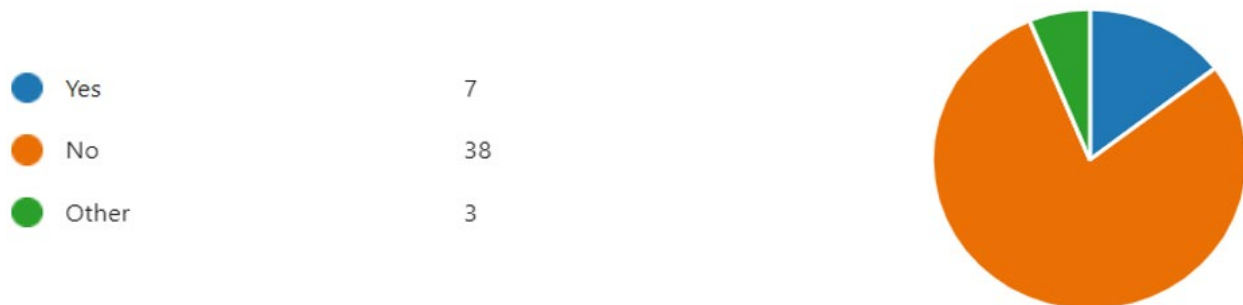


Exhibit G has been submitted as an example of hybrid action minutes.

Exhibit H has been prepared to demonstrate audio embedded into a summary directly to a past Town Council meeting.

Exhibit I briefly overviews Robert’s Rules of Orders, including meeting minutes recommendations and requirements.

01/09/24

Meetings 2023		Meetings 2022		Meetings 2021		Meetings 2020	
Town Council		Town Council		Town Council		Town Council	
TCM-Regular Business	12	TCM-Regular Business	12	TCM-Regular Business	12	TCM-Regular Business	12
TCM-Development Review	12	TCM-Development Review	12	TCM-Development Review	12	TCM-Development Review	12
LPA	1	LPA	1	LPA	4	LPA	3
TCM-Special	6	TCM-Special	6	TCM-Special	8	TCM-Special	7
Total Town Council	31	Total Town Council	31	Total Town Council	36	Total Town Council	34
Planning, Zoning, & Building related		Planning, Zoning, & Building related		Planning, Zoning, & Building related		Planning, Zoning, & Building related	
ARCOM	12	ARCOM	12	ARCOM	12	ARCOM	12
LPC	12	LPC	12	LPC	12	LPC	12
PZC	5	PZC	6	PZC	6	PZC	6
Total PZB related	29	Total PZB related	30	Total PZB related	30	Total PZB related	30
Other		Other		Other		Other	
Code Enforcement Board	12	Code Enforcement Board	12	Code Enforcement Board	12	Code Enforcement Board	5
DCPC	4	DCPC	4	DCPC	4	DCPC	3
IAC	4	IAC	4	IAC	5	IAC	4
RAC	3	RAC	2	RAC	2	RAC	5
RBT	4	RBT	4	RBT	4	RBT	2
SHORE	4	SHORE	3	SHORE	4	SHORE	3
Strategic Plan	2	Strategic Plan	8				
Total Other	33	Total Other	37	Total Other	31	Total Other	22
Town Council Committees		Town Council Committees		Town Council Committees		Town Council Committees	
BAC	3	BAC	5	BAC	9	BAC	3
PW		PW	2	PW	0	PW	1
ORS	1	ORS	3	ORS	6	ORS	1
Finance & Tax	1	Finance & Tax	1	Finance & Tax	0	Finance & Tax	0
Total Council Committees	5	Total Council Committees	11	Total Council Committees	15	Total Council Committees	5
Total Public Meetings		Total Public Meetings		Total Public Meetings		Total Public Meetings	
	98		109		112		91

*247 work days per year

*247 work days per year

*247 work days per year

*247 work days per year

**Town Council meetings > 142 hours

**Town Council meetings > 147 hours

**Town Council meetings > 147 hours

**Town Council meetings > 100 hours

***through October 2023

Municipality	# Avg Monthly Public Meetings	Minute format	Recording timestamped?	Audio in Minutes?	# of staff	# of staff clerk(s)
TOWN OF MANGONIA PARK	4	Action only	No	No	4	1
City of Lake Worth Beach	4	Action only	No	Yes	4	1
Village of Golf	0	Action only	Yes	No	1	1
Town of Lantana	2	Action only	Yes	No	1.5	2
City of Hollywood	2	Action only	Yes	No	4	2
Islamorada, Village of Islands	3	Action only	Yes	Yes	2	1
Town of South Palm Beach	4	Action only	Yes	Yes	1	1
Town of Juno Beach	5	Action only	Yes	Yes	2	2
Westlake	1	Hybrid summary	No	No	2	2
Lake Clarke Shores	2	Hybrid summary	No	No	3	2
Temple Terrace	8	Hybrid summary	No	No	3.5	3
Jacksonville Beach	8	Hybrid summary	No	No	4	4
Edgewood	1	Hybrid summary	Yes	No	2.5	2
Glen Ridge	1	Hybrid summary	Yes	No	1	1
City of Fernandina Beach	2	Hybrid summary	Yes	No	4	1
Ocean Ridge	3	Hybrid summary	Yes	Yes	2	1
City of Belleview	4	Hybrid summary	Yes	No	1	1
City of Boca Raton	6	Hybrid summary	Yes	No	8	3
St. Pete Beach	7	Hybrid summary	Yes	No	3	3
Village of Wellington	4	Hybrid summary and action (website)	Yes	No	6	2
Cloud Lake	1	Summary	No	Yes	1	1
City of St Augustine Beach	2	Summary	No	No	3	1
Belleair Bluffs	2	Summary	No	No	1	1
Sebastian	2	Summary	No	No	2	2
City of Dunnellon	2	Summary	No	No	4	3
City of Lake Mary	2	Summary	No	No	2	1
Jupiter	2	Summary	No	No	4	1
Village of Royal Palm Beach	2	Summary	No	No	3	2
City of Atlantis	2	Summary	No	No	1	1
Indian Rocks Beach	3	Summary	No	No	1	1
Largo	3	Summary	No	No	3	1
Village of Palm Springs	3	Summary	No	No	2	2
Village of Palm Springs	3	Summary	No	No	2	1
Town of Lake Park	4	Summary	No	No	2	1
City of Dade City	5	Summary	No	No	2.5	2
Jupiter Island	5	Summary	No	No	1	1
Town of Hillsboro Beach	2	Summary	Yes	No	2	1
Town of Gulf Stream	2	Summary	Yes	No	1	0
City of Delray Beach	3	Summary	Yes	Yes	6	1
City of Atlantic Beach	4	Summary	Yes	No	3	2
City of Fort Walton Beach	7	Summary	Yes	No	3	2
City of Lake Wales	7	Summary	Yes	No	1.5	1
City of Venice	9	Summary	Yes	No	5	2
City of Punta Gorda	12	Summary	Yes	No	5	2
Riviera Beach	3	Full transcripts	Yes	No	5	2

**MINUTES
CITY OF LAKE WORTH BEACH
REGULAR CITY COMMISSION MEETING
CITY HALL COMMISSION CHAMBER
TUESDAY, SEPTEMBER 5, 2023 – 6:00 PM**

The meeting was called to order by Mayor Resch on the above date at 6:01 PM in the City Commission Chamber located at City Hall, 7 North Dixie Highway, Lake Worth Beach, Florida.

ROLL CALL: (0:56) Present were Mayor Betty Resch, Vice Mayor Christopher McVoy, Commissioners Kimberly Stokes and Reinaldo Diaz. Also present were City Manager Carmen Davis, City Attorney Glen Torcivia and City Clerk Melissa Ann Coyne. Commissioner Sarah Malega was absent.

INVOCATION OR MOMENT OF SILENCE: (1:16) was led by Vice Mayor Christopher McVoy.

PLEDGE OF ALLEGIANCE: (2:22) was led by Mayor Betty Resch.

ADDITIONS/DELETIONS/REORDERING: (2:42)

New Business Item C, Resolution 34-2023 declaring the city a safe and welcoming haven for LGBTQIA+ community and their families, was reordered to follow the Approval of the Minutes..

Action: Motion made by Vice Mayor McVoy and seconded by Commissioner Stokes to approve agenda as amended.

Vote: Voice vote showed: Mayor Resch, Vice Mayor McVoy, Commissioners Stokes and Diaz. NAYS: None. ABSENT: Commissioner Malega.

PRESENTATIONS: (there is no public comment on Presentation items)

- A. Proclamation declaring September 2023 as National Recovery Month brought forward by Commissioner Stokes (3:16)
- B. The Recovery Community HUB coming to Lake Worth Beach: RCC/RCOs in your Community presented by Darcy Hamilton, Leadership Team Member of the Recovery Community HUB, brought forward by Commissioner Stokes (5:11)

COMMISSION LIAISON REPORTS AND COMMENTS: (16:38)

CITY MANAGER'S REPORT: (25:07)

City Manager Davis provided the following report:

- reported that the removal of the vessel at Bryant Park took coordination across many agencies

- met with Katherine Diaz, Communications Specialist of the Children's Services Council of Palm Beach County (PBC) about their investments in the City
- met with Dr. James Green, Director of PBC's Community Services Program to discuss the County's services and programs for housing and the homeless; the website thehomelessplan.com has information about resources and services
- would attend and speak at the NAPC meeting on Saturday
- attended the PBC League of Cities luncheon where there was a presentation on the Live Local legislation – LWB was given credit as an example of how a City's informational brochure could be used for other cities; she acknowledged William Waters' and his team for their work on the brochure
- met with Mallory Coffey, Director of Affiliate Development for Keep America Beautiful regarding the Beautification Program
- gave kudos to the Leisure Services team who won 15 awards at the FFEA (Florida Festival and Events Association) and to Lauren Bennett who won the Emerging Leader award

CITY ATTORNEY'S REPORT:

City Attorney Torcivia did not provide a report.

PUBLIC PARTICIPATION OF NON-AGENDAED ITEMS AND CONSENT AGENDA: (32:05)

APPROVAL OF MINUTES: (43:54)

Action: Motion made by Commissioner Stokes and seconded by Commissioner Diaz to approve the following minutes:

- A. Special Meeting - August 1, 2023
- B. Regular Meeting - August 1, 2023
- C. Budget Work Session #3 - August 7, 2023

Vote: Voice vote showed: Mayor Resch, Vice Mayor McVoy, Commissioners Stokes and Diaz. NAYS: None. ABSENT: Commissioner Malega.

NEW BUSINESS: (44:28)

- C. (reordered) Resolution No. 34-2023 – Declaring the city a safe and welcoming haven for LGBTQIA+ community and their families brought forward by Mayor Resch

Mayor Resch read the resolution.

RESOLUTION 34-2023 OF THE CITY OF LAKE WORTH BEACH, FLORIDA,
DECLARING THE CITY A SAFE AND WELCOMING HAVEN FOR THE LGBTQIA+
COMMUNITY AND THEIR FAMILIES; AND PROVIDING FOR AN EFFECTIVE
DATE

Action: Motion made by Commissioner Stokes and seconded by Commissioner Diaz to approve Resolution No. 34-2023 declaring the city a safe and welcoming haven for LGBTQIA+ community and their families.

Vote: Voice vote showed: Mayor Resch, Vice Mayor McVoy, Commissioners Stokes and Diaz. NAYS: None. ABSENT: Commissioner Malega.

CONSENT AGENDA: (public comment allowed during Public Participation of Non-Agendaed items)

There were no Consent Agenda items on the agenda.

PUBLIC HEARINGS: (51:02)

A. Resolution No. 36-2023 - Establish the Refuse Services Annual Assessment for Fiscal Year 2023-2024

City Attorney Torcivia did not read the resolution.

RESOLUTION NO. 36-2023 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, RELATING TO THE PROVISION OF REFUSE SERVICES, FACILITIES AND PROGRAMS IN THE CITY OF LAKE WORTH BEACH, FLORIDA; RATIFYING AND CONFIRMING THE INTIAL ASSESSMENT RESOLUTION INCLUDING THE DETERMINATION THAT CERTAIN REAL PROPERTY IS SPECIFICALLY BENEFITED BY REFUSE SERVICES, FACILITIES AND PROGRAMS AND THE METHOD OF ASSESSING ASSOCIATED REFUSE SERVICES COSTS AGAINST REAL PROPERTY SPECIALLY BENEFITED THEREBY; ESTABLISHING OTHER TERMS AND CONDITIONS OF THE ASSESSMENTS; APPROVING THE FISCAL YEAR 2023-2024 ASSESSMENT ROLL; PROVIDING FOR COLLECTION OF THE ASSESSMENTS PURSUANT TO THE UNIFORM COLLECTION METHOD; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

Action: Motion made by Vice Mayor McVoy and seconded by Commissioner Diaz to approve Resolution No. 36-2023, establishing the Refuse Services Annual Assessment for Fiscal Year 2023-2024.

Vote: Voice vote showed: Mayor Resch, Vice Mayor McVoy, Commissioners Stokes and Diaz. NAYS: None. ABSENT: Commissioner Malega.

UNFINISHED BUSINESS: (51:47)

A. City of Lake Worth Beach v North H Enterprises, Inc., et al., Case No. 50-2020-CA-009354

Action: Motion made by Commissioner Stokes and seconded by Vice Mayor McVoy to approve the mediated settlement agreement with North H Enterprises.

Vote: Voice vote showed: Mayor Resch, Vice Mayor McVoy, Commissioners Stokes and Diaz. NAYS: None. ABSENT: Commissioner Malega.

NEW BUSINESS: (52:45)

A. Transfer \$2 million of ARPA Funds for Affordable Housing to CRA. (52:47)

Action: Motion made by Commissioner Stokes and seconded by Commissioner Diaz to approve the transfer of \$2 million of ARPA Funds for Affordable Housing to the CRA.

Vote: Voice vote showed: Mayor Resch, Vice Mayor McVoy, Commissioners Stokes and Diaz.
NAYS: None. ABSENT: Commissioner Malega.

B. Resolution No. 35-2023 - Intent to abandon an approximately 10-foot-wide section of public right-of-way (alley) located on north of 9th Avenue South between South H Street and South Dixie Highway, and to abandon an approximately 40-foot-wide section of public right-of-way (9th Avenue South) located between South H Street and South Dixie Highway (1:04:54)

City Attorney Torcivia did not read the resolution.

RESOLUTION NO. 35-2023 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, DECLARING THE INTENTION OF THE CITY COMMISSION TO CONSIDER THE ABANDONMENT OF THE APPROXIMATELY 40-FOOT-WIDE 9TH AVENUE SOUTH RIGHT-OF-WAY AND THE APPROXIMATELY 10-FOOT-WIDE ALLEY RIGHT-OF-WAY LAYING BETWEEN 821 SOUTH DIXIE HIGHWAY, 901 SOUTH DIXIE HIGHWAY, 808 SOUT H STREET, 818 SOUTH H STREET, 824 SOUTH H STREET, 826 SOUTH STREET, 832 SOUTH H STREET, AND 902 SOUTH H STREET AND REVERTING BACK TO THE PROPERTY OWNER OF SAID ABUTTING PROPERTIES (PCN: 38-43-44-21-15-255-0090; 38-43-44-21-15-255-0080; 38-43-44-21-15-253-0110; 38-43-44-21-15-253-0060; 38-43-44-21-15-253-0040; 38-43-44-21-15-253-0032; 38-43-44-21-15-253-0020; AND 38-43-44-21-15-253-0010)AS DESCRIBED HEREIN; SUBJECT TO CONDITIONS; AND PROVIDING FOR RECORDING AND AN EFFECTIVE DATE

Action: Motion made by Commissioner Stokes and seconded by Commissioner Diaz to approve Resolution No. 35-2023 - Intent to abandon an approximately 10-foot-wide section of public right-of-way (alley) located on north of 9th Avenue South between South H Street and South Dixie Highway, and to abandon an approximately 40-foot-wide section of public right-of-way (9th Avenue South) located between South H Street and South Dixie Highway.

Vote: Voice vote showed: Mayor Resch, Vice Mayor McVoy, Commissioners Stokes and Diaz.
NAYS: None. ABSENT: Commissioner Malega.

C. (reordered to follow Approval of the Minutes) Resolution No. 34-2023 – Declaring the city a safe and welcoming haven for LGBTQIA+ community and their families brought forward by Mayor Resch

D. Performance Evaluation Form for Carmen Davis (1:08:05)

Action: Motion made by Commissioner Stokes and seconded by Commissioner Diaz to approve the

Performance Evaluation Form as amended for Carmen Davis.

Vote: Voice vote showed: Mayor Resch, Vice Mayor McVoy, Commissioners Stokes and Diaz.
NAYS: None. ABSENT: Commissioner Malega.

UPCOMING MEETINGS AND WORK SESSIONS:

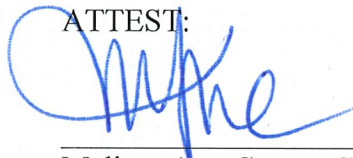
Pre-Agenda Work Session - September 8 @ 9 am
1st Budget Hearing - September 14 @ 6 pm

ADJOURNMENT: (1:48:00)

Action: Motion made by Commissioner Stokes and seconded by Vice Mayor McVoy to adjourn the meeting at 7:49 PM.

Vote: Voice vote showed: Mayor Resch, Vice Mayor McVoy, Commissioners Stokes and Diaz.
NAYS: None. ABSENT: Commissioner Malega.

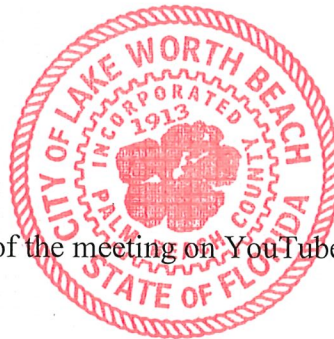

Betty Resch, Mayor

ATTEST:


Melissa Ann Coyne, City Clerk

Minutes approved October 3, 2023

Item time stamps correspond to the video recording of the meeting on YouTube.



**CITY OF ATLANTIS
CITY COUNCIL MEETING**
Council Chambers 260 Orange Tree Drive
Wednesday, July 19, 2023
7:00 p.m.

MINUTES

1. **Call to Order** Mayor Kaulbach called the meeting to order at 7:05 p.m.
2. **Roll Call** Present were Mayor Allan Kaulbach, Vice Mayor Keller Lanahan, Councilor Derek Cooper, Councilor Michael LaCoursiere, and Councilor Guy Motzer. Also present were City Manager Brian Moree, City Attorney Trey Nazzaro, City Clerk Kristen Puhalainen, Police Chief Robert Mangold, Public Works Director Travis Hawthorne, and Code Officer William Amason.
3. **Pledge of Allegiance**
4. **Approval of Minutes** Mayor Kaulbach introduced approval of the minutes. Motion by Councilor LaCoursiere, second by Vice Mayor Lanahan to approve the minutes of the Regular Council Meeting on June 21, 2023. Motion carried 5-0.
5. **Special Presentations**
 - a. **Sen. Bobby Powell** Senator Powell reported on the 2023 legislative session.
6. **Comments from Members of the Public** Mayor Kaulbach asked for comments from the public; there were none.
7. **Ordinances and Resolutions**

Councilor LaCoursiere recused himself from items 7a, 7b, and 7c, and left the room.

- a. **Ordinance 477 Annexation – Second and Final Reading** Mr. Nazzaro read the ordinance by title. Mr. Moree reported that the Local Planning Agency, prior to this meeting, approved consideration of this ordinance by the City Council. Motion by Councilor Motzer, second by Councilor Cooper to approve Ordinance 477 on second and final reading. Motion carried 4-0.
- b. **Ordinance 478 Set Zoning for 4866, 4880, and 4950 S. Military Trail – Second and Final reading** Mr. Nazzaro read the ordinance by title. Mr. Moree reported that the Local Planning Agency, prior to this meeting, approved consideration of this ordinance by the City Council. Motion by Vice Mayor Lanahan, second by Councilor Cooper to approve Ordinance 478 on second and final reading. Motion carried 4-0.
- c. **Ordinance 479 Comprehensive Plan Amendments – Second and Final Reading** Mr. Nazzaro read the ordinance by title. Mr. Moree reported that the Local Planning Agency, prior to this meeting, approved consideration of this ordinance by the City Council. Motion by Councilor Cooper, second by Vice Mayor Lanahan to approve Ordinance 479 on second and final reading. Motion carried 4-0.

Councilor LaCoursiere returned to the dais.

d. Resolution 23-16 Fire Assessment Final Rates Mr. Nazzaro read the resolution by title. Mr. Moree explained the history and the process to establish a fire assessment. Motion by Vice Mayor Lanahan, second by Councilor LaCoursiere to approve Resolution 23-16. There was discussion. Sandi Neubarth of Government Services Group, Inc. answered questions. Mayor Kaulbach asked for comments from the public: Ron Poretz and Yailen Busta spoke. Motion carried 4-1 with Councilor Motzer opposed.

8. Miscellaneous

a. Set Proposed millage for FY 2023-2024 at 7.4100 and schedule first Budget Hearing Mr. Moree recommended setting the maximum millage rate at 7.4100, the current rate and reported that with the passage of Resolution 23-16 it will be lowered at a Budget Hearing. Motion by Councilor LaCoursiere, second by Vice Mayor Lanahan to set the 2023-2024 maximum millage rate at 7.4100 and schedule the first Budget Hearing for September 12th at 6 p.m. Motion carried 5-0.

b. Lantana Airport Update Mr. Moree reported on the meeting the night before hosted by Palm Beach County. The safety study was addressed.

c. Strategic Planning Mr. Moree is working with staff at the University of South Florida to bring a proposal to Council at the August Council meeting. The process should start in October.

d. Budget Discussion The budget will be adjusted with the passage of Resolution 23-16 and a line item budget will be provided to Council before the August meeting.

e. Recommendation of Initial Investment Portfolio Mr. Moree reported that the Finance and Audit Committee met and voted unanimously to recommend that Council approve the proposed initial investment portfolio presented by PFM Asset Management and implement it as soon as possible. Councilor Motzer reported on the discussions of the committee. Motion by Councilor LaCoursiere, second by Vice Mayor Lanahan to approve the proposed initial investment portfolio prepared by PFM Asset Management. Motion carried 5-0.

f. Florida League of Cities Voting Delegate Mr. Moree is attending the FLC conference in August and action is required to name him the voting delegate for the City. Motion by Councilor LaCoursiere, second by Councilor Motzer to name Brian Moree as the City's voting delegate at the Florida League of Cities conference. Motion carried 5-0.

9. City Manager's Report Mr. Moree reported that the Request for Proposals for Auditing Services has been published. The Finance and Audit Committee will rank the proposals and a recommendation will be brought to Council in September. He reported that the new street signs have arrived. He is planning a presentation on the new financial disclosure requirements in August or September. He reported that the doors and windows for the guard houses are complete and that a bid has been received for the remaining improvements. Talks with a traffic engineering firm are in progress. He reported on the Lantana Road and Military Trail perimeter improvements. The license plate cameras have been replaced, and replacing the other cameras is in progress.

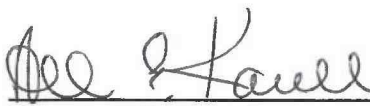
10. Police Chief's Report Chief Mangold gave the report for June.

11. Code Compliance Officer's Report Mr. Amason gave the code report.

12. City Attorney/League of Cities Report Mr. Nazzaro reported that the League's July 26th meeting will be in North Palm Beach, and a seminar on financial disclosure Form 6 will follow.

13. Council Comments Councilor LaCoursiere said 6th Avenue South is expected to be completed in June 2024. He requested that the passage of the fire assessment be communicated to the property owners. Councilor Motzer had no comments. Councilor Cooper had no comments. Vice Mayor Lanahan had no comments. Mayor Kaulbach thanked everyone for coming.

14. Adjourn The meeting was adjourned at 9:20 p.m.


Allan Kaulbach, Mayor




Kristen Puhalainen, City Clerk

Note: A Mechanical recording has been made of the foregoing procedures of which these minutes are a part and is on file in the office of the City Clerk.

**FINAL MINUTES AND AGENDA
TOWN OF JUPITER
TOWN COUNCIL MEETING
TOWN COUNCIL CHAMBERS
TUESDAY, AUGUST 15, 2023**

Mayor Kuretski called the meeting to order at 7:00 P.M.

Roll Call: Mayor Jim Kuretski; Councilor Ron Delaney; Councilor Cameron May; Councilor Malise Sundstrom; Town Manager Frank Kitzerow; Town Attorney Thomas J. Baird and Town Clerk Laura Cahill.

PRESENTATION

1. CONTINUED TO 9/5/23

Florida League of Cities presenting the Florida Municipal Achievement Public Engagement Award to the Town for the Passport to Jupiter.

Councilor May asked to reorder the agenda to have the Fire and EMS Sustainability and Feasibility Study update presentation moved to after the Consent agenda. Council agreed unanimously.

2. Pearl Mae Foundation.

Mr. David Krell, Executive Director of the Pearl Mae Foundation, spoke about the Foundation's history, programs including Pearl's Pantry, senior grant program, and tuition scholarships. He also thanked the Town for its support.

CITIZEN COMMENTS

Mr. Andy Weston, resident of Dolphin Drive, spoke regarding Dolphin Drive and reviewed a letter sent from a Jupiter resident.

MINUTES

3. August 3, 2023 Town Council Special Meeting Minutes.

Councilor Sundstrom moved to approve August 3, 2023 Town Council Special Meeting Minutes, as amended; seconded by Councilor Delaney; motion passed.

Kuretski	Delaney	May	Sundstrom
Yes	Yes	Yes	Yes

CONSENT AGENDA

All items listed in this portion of the agenda are considered routine by the Town Council and will be enacted by one motion. There will be no separate discussion of these items unless a Councilor or citizen so requests; in which event, the item will be removed and considered at the beginning of the regular agenda.

- Councilor Delaney pulled item 4.
- Mayor Kuretski pulled item 8.

Councilor Delaney moved to approve the Consent Agenda, as amended; seconded by Councilor Sundstrom; motion passed.

Kuretski	Delaney	May	Sundstrom
Yes	Yes	Yes	Yes

CONSENT AGENDA

PUBLIC HEARING

4. **Ordinance 5-23, First Reading, Jupiter Medical Center Zoning District Front Setback Reduction** - Zoning text amendment to the Medical Center (MC) Zoning District, Section 27-964, entitled "Area and dimension regulations", to reduce the front setback through a waiver process. (Second Reading 9/19/23) **MOVED TO REGULAR AGENDA**
5. **Ordinance 14-23, Second Reading, Zoning Text Amendments to the Mixed-Use Development (MXD) Zoning District** – to clarify density requirements and to delete the Residential, Estate (RE) subdistrict.

Title read by Mr. Baird.

PUBLIC BUSINESS

6. **Resolution 38-23**, Approving the renewal of contract EPW 2022-12 Right of Way and Easement Maintenance with Terracon Services, Inc. (Terracon), in an amount not to exceed \$112,609.21.
7. **Resolution 39-23**, Approving the renewal of contract EPW 2022-35 Janitorial cleaning Contract for Town Hall and the Police Department facilities with Ceiling to Floor Cleaning, Inc., in an amount not to exceed \$64,047.59.
8. **Resolution 78-23**, Approving the contract award with Risk Management and Associates – Brown and Brown Public Sector for Property and Casualty Insurance for the Town with an estimated annual cost of \$2,171,402. **MOVED TO REGULAR AGENDA**
9. **Resolution 90-23**, Approving the contract award of EPW 2022-29 Lighthouse Park Concession-Restroom Building and Drop-Off Shelter Reroofing to Solarguard Roofing, Inc. in an amount not to exceed \$52,800.
10. **Resolution 91-23**, Approving the contract award of Work Order 41 of contract EPW 2016-12D with Wantman Group, Inc. for the Maplewood and Indian Creek Park Playgrounds and the Indian Creek Park Restroom Building design services in an amount not to exceed \$110,815.74.
11. **Resolution 92-23**, Approving the contract award of Work Order 28 with Kimley-Horn and Associates, Inc. (Kimley-Horn) for the construction phase services of Jupiter Community Park Improvements in an amount not to exceed \$101,686.10.
12. Approving the purchase order for nine (9) new vehicles for the Parks and Utilities Departments with an anticipated total purchase price of \$489,628.61.

END OF CONSENT AGENDA

ITEMS REMOVED FROM CONSENT AGENDA TO REGULAR AGENDA

4. Ordinance 5-23, First Reading, Jupiter Medical Center Zoning District Front Setback

Reduction - Zoning text amendment to the Medical Center (MC) Zoning District, Section 27-964, entitled "Area and dimension regulations", to reduce the front setback through a waiver process. (Second Reading 9/19/23)

Title read by Mr. Baird

Councilor Delaney abstained due to his wife's employment with Jupiter Medical Center.

Councilor Sundstrom moved to approve Ordinance 5-23; First Reading; seconded by Councilor May; motion passed.

Kuretski
Yes

Delaney
Abstain

May
Yes

Sundstrom
Yes

8. Resolution 78-23, Approving the contract award with Risk Management and Associates – Brown and Brown Public Sector for Property and Casualty Insurance for the Town with an estimated annual cost of \$2,171,402.

Mayor Kuretski said he would like to get more information regarding resolution and asked to continue the item for the September 5th Council meeting.

Councilor May motion to continue Resolution 78-23 to Town Council September 5, 2023 Meeting; seconded by Councilor Delaney; motion passed.

Kuretski
Yes

Delaney
Yes

May
Yes

Sundstrom
Yes

REGULAR AGENDA

PRESENTATION

18. Fire and EMS Sustainability and Feasibility Study update by Chief Joe Pozzo, International City Manager's Association (ICMA).

Chief Joe Pozzo, Center for Public Safety and Management (CPSM), gave a brief overview of the CPSM study and project timeline. He explained the purpose of the presentation was to give an update which included actual costs of the interlocal agreement (ILA), year one of operations estimate for Jupiter Fire Rescue (JFRD), and a fire rescue service cost comparison between Palm Beach County Fire Rescue (PBCFR) and JFRD.

Councilor May asked why there was an increase in over three million dollars added to the total reoccurring costs.

Chief Pozzo responded it was debt service costs.

Mr. Scott Reynolds, Finance Director, explained in preparing for the presentation they had made assumptions of debt service and added the amounts in the presentation.

REGULAR AGENDA

PRESENTATION

- 18.** Fire and EMS Sustainability and Feasibility Study update by Chief Joe Pozzo, International City Manager's Association (ICMA).

Councilor May asked if the move-up costs were included in the contract and built in to the millage rate.

Mr. Reynolds answered that the costs were added and not built into the millage rate.

Councilor May said he does not agree with FY23-FY26 being zero dollars.

Mr. Reynolds agreed and explained it would not be a cost to residents for the first three years while we were still in the ILA. He clarified that the debt service costs would include some up-front costs and be paid when the cutoff happens between PBCFR and JFRD.

Councilor Delaney asked about interest rates pertaining to debt service costs.

Mr. Reynolds stated rates had been going up but explained depending on what type of loan we could acquire, rates could vary greatly.

Mayor Kuretski mentioned he did not have an issue with PBCFR's level of service but was concerned with the request for a different type for contract going forward. He asked about the timeline and September 30th, 2023 being the date needed to give notice to PBCFR if they chose to start JFRD.

Mr. Baird said yes.

Mayor Kuretski stated he would like to begin efforts to start a Town of Jupiter Fire Department.

Councilor May said it was highly inappropriate due to not having a full Council and also not having 2024 financial numbers.

Councilor Sundstrom explained that the ILA can increase more than five percent due to not having a ceiling. She said losing local control allows the County to make policy decisions that could affect budget decisions and increase our costs. Councilor Sundstrom noted that after many negotiations we got the best possible, passable ILA.

Councilor Delaney agreed with Councilor Sundstrom and said the Town would save approximately 68 million dollars between Fiscal year 2026-2033. He mentioned his great relationship over the years with PBCFR, but said being a steward of Jupiter tax payer's he would be derelict in duty if he did not move forward with creating JFRD due to the cost saving. He asked what the process is going forward to notify the County.

Mr. Baird said there is a 36 month advance written notice that has to be provided.

Mayor Kuretski stated he believed enough information was given to Mr. Kitzerow to begin down the path of starting JFRD.

REGULAR AGENDA

PRESENTATION

- 18.** Fire and EMS Sustainability and Feasibility Study update by Chief Joe Pozzo, International City Manager's Association (ICMA).

Councilor May said it was unfair they were making this decision without a full Council. Councilor Sundstrom mentioned there was a deadline and the decision needed to be made timely.

PUBLIC HEARING

- 13. Resolution 42-23, Fisherman's Wharf – Quasi-Judicial** – Special Exception and Site Plan applications for a three-story office building with underbuilding parking, a two-story restaurant with outdoor dining, a tiki bar, and a private dock, on a 4.6± acre property, located approximately ¼ mile west of US Highway One, along the north side of Indiantown Road. The Town Clerk swore in eight people.

Ex-Parte Communications:

- Councilor Delaney noted phone calls with the Applicant and Mr. George Gentile Office.
- Mayor Kuretski mentioned communications with Staff regarding noise levels and parking requirements.
- Councilor Sundstrom stated she spoke with Mr. Troy Holloway and Staff regarding noise levels, parking, and roundabouts.

Mr. Troy Holloway with Gentile Holloway O'Mahoney & Associates, Inc (2GHO), representing the Applicant, gave an overview of the special exception and site plan application including location; history; site plan and North property line; pedestrian circulation plan. He reviewed the proposed architecture design, the special exception for the restaurant, coordination with residents from Water's Edge Estates, and benefits to the Town. Mr. Holloway requested modification to condition 6 to allow the Applicant to operate per Town code instead of the 10:00 P.M. close time. He also asked to modify the language in condition 8B.

Ms. Elizabeth Conley, Planner, spoke regarding the special exception and site plan application. She noted Staff's concerns of no proposed sidewalk on the West side of the traffic circle and proposed a redesign to improve pedestrian safety and calm traffic.

She also reviewed Staff's concerns and recommendations regarding parking spaces, residential impacts, noise control, environmental stewardship, signage and utilities.

Councilor Sundstrom asked if there would be signage on any parking spaces in the garage related to the offices. Mr. Holloway confirmed that the parking would be shared and no reserved spaces. She noted her concerns about maintaining privacy for the residents.

Councilor Delaney asked where dumpsters would be located and if the applicant went from the existing retaining wall with a six-foot wall. Mr. Holloway stated yes and confirmed the location of the dumpsters on the property.

REGULAR AGENDA

PUBLIC HEARING

13. Resolution 42-23

Councilor Delaney asked Staff about the 10:00 P.M. shut down time and its relation to outside dining. Ms. Conley clarified that they could remain doing business as usual inside, however outside would be closed.

Councilor Delaney and Mr. John Sickler, Director of Planning and Zoning, discussed his concerns regarding sound traveling to neighborhood and the 10:00 P.M. shut down time.

Mayor Kuretski asked who owned the retaining wall. Mr. Holloway stated the retaining wall is owned by the homeowner. He also noted the Applicant would build a wall six to eight feet from the retaining wall and put landscape on both sides of the wall.

Mayor Kuretski mentioned his concerns with adding a load to the property owners retaining wall. He also discussed his concerns regarding the applicant being allowed a greater noise limit on the property line of the resident than Harbourside.

Councilor Sundstrom *noted the residents were okay with the project, and that this was a factor in her considering it.* She suggested to keep the condition regarding the 10:00 P.M. shut down time and to add a condition to place signage in the parking garage.

LC 09/05/23

Councilor Delaney agreed with putting signage in the parking garage to assist with traffic. He also noted his support for the application.

Councilor May supported the item and agreed with the 10:00 P.M. shut down time.

Mayor Kuretski mentioned he did not support due to his concerns for noise impact and the outdoor seating being two levels.

Councilor Delaney motion to approve Resolution 42-23, as amended, adding a condition regarding parking signage; seconded by Councilor Sundstrom; motion passed.

Kuretski
No

Delaney
Yes

May
Yes

Sundstrom
Yes

14. Resolution 49-23, 1000 Town Hall Avenue (Old Town Hall) – Quasi-Judicial –

Requesting a Town-initiated Local Historic Designation for a +/- 2.4- acre property located at 1000 Town Hall Avenue.

Ex-Parte Communications:

- Councilor Sundstrom had spoken with Staff.

The Town Clerk swore in four people.

Mr. Stephen Mayer, Senior Planner noted the item was a strategic priority of the Historic Resources Board (HRB). He went on to give a brief presentation which included property location; aerial view; historical significance context; historical designation criteria; Staff considerations; and HRB recommendation.

Councilor Delaney supported the item and asked if there were any cons.

REGULAR AGENDA

PUBLIC HEARING

14. Resolution 49-23

Mr. Mayer stated the only con would be the requirement for a Certificate of Appropriateness (COA) on certain Town actions for the rest of the property, which would add additional levels of review.

Councilor Sundstrom said she was very supportive. She noted the property was Town owned; her concern about the possibility of moving the building; drainage of property due to flooding; and stormwater concerns.

Mr. Mayer stated he would not be able to speak regarding stormwater improvements but believed the COA would capture improvements.

Ms. Stephanie Thoburn, Assistant Director of Planning and Zoning noted there were not any projects proposed. She stated there had been discussions regarding resiliency in order to expand the Seminole basin onto the western section, which could provide additional stormwater capacity and water quality.

Councilor May supported the entire site.

Mayor Kuretski supported the project and stated the Town intended to keep the site as a public property. He asked Staff to clarify the COA matrix used.

Ms. Thoburn stated the COA matrix used predominately covers buildings and structural repairs. She noted new construction was a small topic but believed the stormwater improvements would fall under it. She stated Staff would need to review repairs but a change to the size and/or impact would need to be reviewed by the HRB. She said if there was a change to the site plan then it would be approved by Council.

Mayor Kuretski said a change to a playground was hard enough.

Ms. Thoburn said a playground was more kin to what was on the COA and Staff had conversations with Parks and Recreation to incorporate more historic themed equipment. She noted if it were replaced in its entirety it would go the HRB but small repairs would be approved by Staff.

Mr. Kitzerow stated he asked Staff to bring forward concerns from the Directors who were responsible for those areas regarding the COA.

Councilor Sundstrom said it was a special playground and believed public input was needed for the playground. She reiterated her concerns about the flooding and stormwater.

Mr. Kitzerow said he believed there were one or two stormwater projects currently in the planning phase.

Mayor Kuretski stated if Council wanted to make any changes then they needed to suggest language for the Resolution and asked Staff if they had any.

REGULAR AGENDA

PUBLIC HEARING

14. Resolution 49-23

Mr. John Sickler, Director of Planning and Zoning stated the Staff felt there could be more clarification on the matrix approved by the HRB. He thought clarity on what was administrative versus what items were approved by the HRB for the COA was needed. He also noted there could be an update to deal with properties more than just buildings and more detail for new construction.

Mayor Kuretski asked if that would be something the Council would decide.

Mr. Sickler noted it was not, but if the Council wanted Staff could bring it back.

Mayor Kuretski stated he thought it was appropriate in this case.

Councilor Sundstrom asked if the clarification could include the Town managing the whole property, with the direction to Staff to amend the matrix to allow for stormwater uses to be administratively approved.

Mr. Sickler said it would be a different action then approving the Resolution. He noted Council could approve the Resolution as is and then direct Staff to work with the HRB to update the matrix for the COA's. This update would include items in the COA and those which would be up for Staff review.

Ms. Thoburn asked if Council wanted to continue the item to allow Staff to continue research and meet with the new Director of Utilities to see what projects they had planned.

Mayor Kuretski asked if Ms. Thoburn had suggested to continue item.

Ms. Thoburn said yes, because she wanted to have more answers on the property for Council.

Ms. Susan Brandt, resident of Florida Avenue, felt the whole park should stay as it was and be designated as historic. She believed the retention pond needed to be re-dredged and not used as a staging area for construction on Indiantown Road.

Mr. Carlton Tassell spoke on behalf of Ms. Kiah Kohlhoff, a resident of Town Hall Avenue grows up in Jupiter and believed the park was a special place.

Mr. Brett Leone, resident of Barbados Drive, supported the designation and felt the stormwater concerns could be addressed by Staff. He thought there should be different markers identifying the history of the property.

Mayor Kuretski stated the Council was unanimous in wanting to preserve the site but believed there needed to be a practice in place which was practical. He noted Staff had recommended bringing the item back on consent with recommendations.

REGULAR AGENDA

PUBLIC HEARING

14. Resolution 49-23

Councilor Delaney motion to continue Resolution 49-23 until Staff had information to bring back under consent; seconded by Councilor Sundstrom; motion passed.

Kuretski
Yes

Delaney
Yes

May
Yes

Sundstrom
Yes

15. Resolution 62-23, Roger Dean Chevrolet Stadium Renovation Designation – Quasi-Judicial – Site plan amendment to renovate the existing spring training facility, construct new team clubhouses, and construct new temporary facilities during construction, on a 90± acre property, located at 4355 Stadium Drive.

Ex-Parte Communications:

- Councilor Delaney met with Mike Bauer and George Gentile at Mr. Gentile's office.
- Councilor Sundstrom met with the applicant at his office and spoke with staff
- Councilor May had a phone call with Mike Bauer and George Gentile

The Town Clerk swore in nine people.

Mr. George Gentile, with 2GHO representing Roger Dean Chevrolet Stadium (RDSCS), gave a presentation that highlighted the property's history, site data, scope of improvements, and proposed site plan.

Mr. Kirk Bauer, with Fawcely Bryant Architecture, continued the presentation by going three important components which were improving the overall fan experience; improvements to male and female locker rooms; and a new image to the stadium that coordinates with Downtown Abacoa.

Mr. Garrett Watson, Senior Planner, gave an overview of the RDSCS multi-year project.

Mayor Kuretski asked Mr. Gentile if he felt that Staff and Council were not thrilled with the project proceeding.

Mr. Gentile stated absolutely not and explained it was one of his favorite activities in the Town.

Mayor Kuretski stated the Town had always been thrilled with the project.

Councilor Delaney said he did not want to hold up project due to the grass parking situation.

Councilor Sundstrom agreed with Councilor Delaney and looked forward to going to the team stores. She asked if consideration could be made to incorporate seating in the plaza to the stadium for when individuals and families wait on others to arrive outside.
LC 09/05/23

Councilor May was in favor and felt the Town could figure out the parking.

REGULAR AGENDA

PUBLIC HEARING

15. Resolution 62-23

Mr. Gentile felt that everyone could work together to get the project completed.

Mayor Kuretski noted the Town had donated 25 acres of property to Palm Beach County with the expectation the quad fields would be updated for public use. He stated he expected to continue the long-time partnership.

Mr. Bauer, General Manager of Roger Dean Chevrolet Stadium, said they had recently sat down with the teams and they were open to sitting down with the Town and renegotiating the use agreement. He felt that everyone could work together and get it accomplished.

Mayor Kuretski stated parking needed to be resolved and believed the PBC engineer needed to be involved.

Mr. Baird stated the parking lot had nothing to do with the major or minor league operations. He said there was control over the tournaments and the parking lot which needed to be addressed did not slow down project.

Councilor Sundstrom stated parking needed to be addressed but not now with the motion to proceed with the project.

Councilor Delaney moved to approve Resolution 62-23, as amended, to include the whereas clause the Mayor suggested and to exclude condition 7; seconded by Councilor Sundstrom; motion passed.

Kuretski
Yes

Delaney
Yes

May
Yes

Sundstrom
Yes

PUBLIC BUSINESS

16. Selection of Town of Jupiter Vice-Mayor 2023-2024.

Councilor Sundstrom acknowledged Council's tradition of passing the Vice-Mayor title around and said she would feel comfortable with reinstating Councilor Delaney due to him being the Vice-Mayor immediately preceding.

Councilor Sundstrom moved to select Councilor Delaney as Town of Jupiter Vice-Mayor 2023- 2024; seconded by Councilor May.

Kuretski
Yes

Delaney
Yes

May
Yes

Sundstrom
Yes

ROUNDTABLE

17. CONTINUED TO TBA

Property Owner's Unilateral proposal to amend the Development Agreement between the Town and Crossroads 6106 LLC as successor in interest to Developer Diversified Realty (DDR) Jupiter Falls LLC also referred to as Santé Circle.

ROUNDTABLE

18. CONTINUED TO TBA

Mayor Kuretski spoke about the item being continued at the request of a Council member and the Applicant. He stated his concerns regarding last minute changes to the agenda and changes should be subject to the Council's decision.

Councilor Sundstrom stated she asked to continue the item to have more time to review.

Vice-Mayor Delaney mentioned he received an email and a phone call from the Applicant who asked for more time.

Mayor Kuretski asked to keep items on the agenda if they are requested to be continued by the Applicant so Council still had an opportunity to discuss.

REPORTS

TOWN ATTORNEY

- Jupiter Soccer Case – Mr. Baird stated the motion for summary judgement for the Jupiter Soccer Case was set for October 6, 2023 and Jupiter-Tequesta Athletic Association (JTAA) joined in the Town's motion.
- Jupiter Stadium Limited agreement – Mr. Baird mentioned the Town had already prepared an amendment to the Jupiter Stadium Limited agreement based on discussions he had with the Town Manager some time ago so he would be able to send to them pretty quickly.

TOWN MANAGER

- Agenda items – Mr. Kitzerow spoke about managing the agenda and its complexity. He also mentioned the roundtable item that was continued had nothing to do with the Applicant's request. He stated that due to the large agenda and a Council member requesting more time, he made the decision to continue the item.

Mayor Kuretski stated the item should have been continued to the next meeting since it was the Town's item.

Mr. Kitzerow agreed to have it on the next meeting.

- Termination Letter written to County - Mr. Kitzerow stated he was clear on his direction to write a letter to the County to exercise the 36-month termination option for the Jupiter Fire department and asked if there needed to be a vote to proceed.

Mr. Baird stated Council could have a vote to direct the Town Manager to send the notice of termination letter.

REPORTS

TOWN MANAGER

Vice-Mayor Delaney motion for the Town Manager to send a written letter to terminate the Interlocal Agreement with Palm Beach County Fire Rescue; seconded by Councilor Sundstrom; motion passed.

Kuretski
Yes

Delaney
Yes

May
No

Sundstrom
Yes

- Cornerstone agreement – Mr. Kitzerow stated an agreement was met regarding the Cornerstone agreement and it would be moving forward.
- Acknowledged Mr. Daniel Baird from the IS department – Mr. Kitzerow acknowledged Daniel for his hard work and the recent Staff Lunch and Learn regarding Artificial Intelligence (AI). He also mentioned the Town would be hosting an AI symposium for local government a week from Wednesday.

TOWN COUNCIL – LIAISON REPORTS AND COMMENTS

MAYOR KURETSKI

- Council Vacancy - Mayor Kuretski mentioned the Council vacancy, the letter of opinion from the Town Attorney regarding the Charter and the next regular election, and the appointment process. He stated Council should decide on a process and they had received several candidates that had expressed interest in being appointed.

Councilor Sundstrom agreed about having the criteria listed out and asked for the interested candidates to provide their address, district, and contact information.

Mayor Kuretski stated the Town should notify the public for anyone who was interested to submit a letter of interest, resume, and proof of residency.

Mr. Baird stated the Council had two meetings to deliberate and appoint a candidate.

Vice-Mayor Delaney asked if the appointee had to be from District 1.

Mr. Baird stated Council could make it District specific but that was not his interpretation of the Charter.

Mayor Kuretski mentioned he preferred them to be from District 1.

Council discussed the timeline.

Mayor Kuretski suggested to receive submission by September 12, 2023. Council unanimously agreed.

Councilor May asked the Town to let the News media know since not everyone followed the Town's social media.

Mayor Kuretski mentioned Staff to reach out to who had already applied to make sure they submitted all the information.

TOWN COUNCIL – LIAISON REPORTS AND COMMENTS

MAYOR KURETSKI

- Town Manager's performance evaluation – Mayor Kuretski mentioned Council had an obligation to complete the Town Manager performance evaluation for the year one period that ended May 31, 2023. He stated Council needed to decide on salary adjustment based on performance and for it to be retroactive to June 1, 2023. He shared that he thought Mr. Kitzerow effectively ran Town government well from an overall perspective while also helping deliver several dozen noteworthy achievements. He felt Mr. Kitzerow exceeded expectation on two important accountability areas and met or exceeded expectations in the other areas. He looked forward to the collaborative partnership and performance in the Town and pursuing targeted future achievements. He believed with the current Town Manager and Council that they had achieved more in the last year and a half period than any other Council and Town Manager had.

Vice-Mayor Delaney stated he agreed with everything and that Mr. Kitzerow was a great leader, quick study, and straightened out the culture with Staff. He added the Town was fortunate to have him.

Councilor Sundstrom read from the written evaluation she provided stating Mr. Kitzerow's leadership during the difficult season had been outstanding. She stated it had been a challenging year and she did not think that without the Town Manager's leadership and support they could have completed many of the strategic and operational items to such a high standard. She was grateful for the work he did.

Councilor May stated he was supportive and every interaction he had with the Town Manager had been great and had accomplished a lot in the last year and a half.

Mayor Kuretski mentioned compensation and stated he talked to the Town Attorney regarding the contracts annual cap of two and a half percent. He also mentioned having the Town Attorney amended the contract to remove the annual cap at the discretion of Council.

Councilor Sundstrom supported removing the limit and wanted to be fair.

Vice-Mayor Delaney suggested a minimum of five percent increase.

Councilor May stated he was good with five percent as it brought it in line with Town employee increases.

Mayor Kuretski stated he supported five percent annual adjustment but based upon the review, suggested a bonus in recognition of achievement.

Councilor Sundstrom asked about discussing the bonus amount and structure.

Mayor Kuretski suggested five percent with a \$10,000 one-time bonus. Vice-Mayor Delaney agreed.

Councilor Sundstrom stated she was supportive but would like more context.

TOWN COUNCIL – LIAISON REPORTS AND COMMENTS

MAYOR KURETSKI

Councilor May said he was supportive but would like to discuss it with the Town Manager privately before any action was taken.

Mr. Kitzerow thanked Council and appreciated their support. He stated it was a privilege and enjoyed working with Council but could not do any of it without the Town Staff and Department Heads.

COUNCILOR SUNDSTROM

- Old Town Hall – Councilor Sundstrom spoke about Old Town Hall. She stated she did hear what the residents said regarding the playground and that she did not want much to change.
- Town Manager evaluation – Councilor Sundstrom thanked the Mayor for bringing up the Town Manager's evaluation.

Vice-Mayor Delaney also appreciated the Mayor's efforts regarding the Town Manager's evaluation.

ADJOURNMENT- 10:23 P.M.

Laura Cahill, Town Clerk

RIVIERA BEACH CITY COUNCIL

Special Meeting

- - -

Marina Village Event Center
190 East 13th Street
Riviera Beach, Florida
Friday, October 15, 2021
6:01 p.m. - 6:26 p.m.

- - -

IN ATTENDANCE:

Chair Shirley Lanier
Vice Chair KaShamba Miller-Anderson
Commissioner Julia Botel
Commissioner Douglas Lawson
Commissioner Tradrick McCoy
Mayor Ronnie L. Felder
Executive Director Jonathan Evans
City Attorney Dawn Wynn
City Clerk Claudene Anthony

1 BE IT REMEMBERED that the following Special
2 City Council Meeting was had at the Marina Village
3 Event Center on Friday, October 15, 2021, beginning at
4 6:01 p.m., with attendees as hereinabove noted, to wit:

5 - - -

6 CHAIR LANIER: Good afternoon. We are here
7 to call a Special City Council meeting for Friday,
8 October 15th, 6:01 p.m.

9 Madam Clerk.

10 CITY CLERK ANTHONY: Mayor Ronnie Felder.

11 (No response.)

12 CITY CLERK ANTHONY: Chairperson, Shirley
13 Lanier.

14 CHAIR LANIER: Here.

15 CITY CLERK ANTHONY: Chair Pro Tem KaShamba
16 Miller-Anderson.

17 VICE CHAIR MILLER-ANDERSON: Present.

18 CITY CLERK ANTHONY: Councilperson Tradrick
19 McCoy.

20 COUNCILPERSON McCOY: Here.

21 CITY CLERK ANTHONY: Councilperson Douglas
22 Lawson.

23 COUNCILPERSON LAWSON: Here.

24 CITY CLERK ANTHONY: Councilperson Julia
25 Botel.

1 COUNCILPERSON BOTEL: Here.

2 CITY CLERK ANTHONY: City Manager Jonathan

3 Evans.

4 EXECUTIVE DIRECTOR JONATHAN EVANS: Present.

5 CITY CLERK ANTHONY: City Clerk Claudene

6 Anthony is present.

7 City Attorney Dawn Wynn.

8 MS. WYNN: Here.

9 CITY CLERK ANTHONY: Thank you, Madam Chair.

10 CHAIR LANIER: Thank you.

11 We will have a moment of silence, followed by

12 the Pledge of Allegiance by Dr. Botel.

13 (Moment of silence observed. Pledge of

14 Allegiance recited.)

15 CHAIR LANIER: Are there any additions,

16 deletions or substitutions for this agenda?

17 EXECUTIVE DIRECTOR JONATHAN EVANS: None from

18 staff, Madam Chair.

19 COUNCILPERSON McCOY: Yes, can we delete item

20 number one? I mean that the Mayor did call this, and

21 he's not here himself, so --

22 COUNCILPERSON BOTEL: One presumes you're

23 being facetious.

24 COUNCILPERSON McCOY: No, I'm very serious.

25 And that's for discussion, so I mean that's not

1 facetious, but more -- oh, I withdraw that; I withdraw
2 that.

3 CHAIRPERSON BOTEL: Withdrawn.

4 CHAIR LANIER: Are there any disclosures by
5 Council in regards to the item that's listed on this
6 agenda?

7 COUNCILPERSON MCCOY: (Inaudible.)

8 CHAIR LANIER: A motion to adopt the agenda?

9 COUNCILPERSON BOTEL: So moved.

10 COUNCILPERSON LAWSON: Second.

11 CHAIR LANIER: There is no consent agenda.

12 CITY CLERK ANTHONY: Madam Chair, we need to
13 call the motion --

14 CHAIR LANIER: Oh, for the approval of the --
15 yes.

16 I'd also like to recognize the Mayor, who is
17 now at the dais.

18 Call the question for the approval of the
19 agenda.

20 CITY CLERK ANTHONY: Councilperson McCoy.

21 COUNCILPERSON MCCOY: No.

22 CITY CLERK ANTHONY: Councilperson Botel.

23 COUNCILPERSON BOTEL: Yes.

24 CITY CLERK ANTHONY: Councilperson Lawson.

25 COUNCILPERSON LAWSON: Yes.

1 CITY CLERK ANTHONY: Pro Tem Miller-Anderson.
2 VICE CHAIR MILLER-ANDERSON: Yes.
3 CITY CLERK ANTHONY: Chair Lanier.
4 CHAIR LANIER: Yes.
5 CITY CLERK ANTHONY: That motion is approved,
6 with Councilperson McCoy dissenting.
7 CHAIR LANIER: Item number one.
8 CITY CLERK ANTHONY: Discussion and
9 deliberation to announce a closed session meeting for
10 Ladi March Goldwire versus City of Riviera Beach, case
11 number 9-18-CV-081285.
12 CHAIR LANIER: Can I get a motion?
13 CITY CLERK ANTHONY: Madam Chair, you do not
14 need a motion for discussion.
15 MS. WYNN: Madam Chair, I just need to
16 announce it.
17 CHAIR LANIER: All right, very good. Go
18 ahead, Madam Attorney.
19 MS. WYNN: Pursuant to Florida Statute
20 286.011(8)(d), public meetings and records, and a
21 desire to obtain advice concerning litigation, I'm
22 requesting a time that the City Council is available
23 for a closed executive session in the matter of Ladi
24 March Goldwire versus the City of Riviera Beach, case
25 number 9-18-CV-81285.

1 Outside counsel, along with the City
2 Attorney, is seeking a closed door session with Council
3 to discuss settlement of attorneys' fees and costs.
4 Therefore, I would like to know if the Council is
5 available for a closed executive session on Monday,
6 October 18th, 2021, at 6:00 p.m.

7 COUNCILPERSON McCOY: Madam Chair.

8 CHAIR LANIER: Yes, go ahead.

9 COUNCILPERSON McCOY: So a couple things.
10 I'm not available on Monday. In fact, we've had, in
11 some fashion or another, four, I guess, official
12 attendances to some meeting of some sort this week.
13 And, you know, unless there's something that is going
14 to be said or come out that we haven't heard already, I
15 just don't understand what else we need to go into
16 closed session for, because we've had, you know,
17 several, I want to say at least six hours of
18 conversation regarding this item in closed session
19 alone, and then at least another couple hours in a
20 public meeting. So I don't understand the need for and
21 I wouldn't support it. And not only that, I'm not
22 available.

23 CHAIR LANIER: Thank you, sir, for your
24 comments.

25 VICE CHAIR MILLER-ANDERSON: Madam Chair.

1 CHAIR LANIER: Yes, go ahead.

2 VICE CHAIR MILLER-ANDERSON: I'm available.

3 CHAIR LANIER: I'm also available.

4 COUNCILPERSON BOTEL: I'm available.

5 CHAIR LANIER: Mr. Lawson.

6 COUNCILPERSON LAWSON: Yes, Madam Chair.

7 COUNCILPERSON BOTEL: Are you available?

8 COUNCILPERSON LAWSON: For the meeting?

9 COUNCILPERSON BOTEL: Monday.

10 COUNCILPERSON LAWSON: I'll be available.

11 CHAIR LANIER: Very good.

12 MS. WYNN: Therefore, the closed executive
13 session will be held on the 18th day of October 2021 at
14 6 p.m. at the Marina Event Center, 190 East 13th
15 Street, Riviera Beach, Florida, 33404, in the case of
16 Ladi March Goldwire versus the City of Riviera Beach,
17 case number 9-18-CV-81285.

18 Those persons in attendance will be City
19 Attorney Dawn Wynn and/or Lina Busby, Senior Assistant
20 City Attorney, Special Counsel Don Stephens, Esquire,
21 of Olds and Stephens, Mayor Felder, Members of the City
22 Council, City Manager Jonathan Evans. The subject
23 matter of the closed executive session shall be
24 restricted to the discussion of the settlement of
25 attorneys' fees and costs.

1 COUNCILPERSON McCOY: Madam Chair.
2 CHAIR LANIER: Yes, go ahead.
3 COUNCILPERSON McCOY: So Ms. Wynn, I'm
4 actually not going to be in town. Would I be able to
5 participate remotely?
6 MS. WYNN: Yes, sir.
7 COUNCILPERSON BOTEL: Madam Chair.
8 CHAIR LANIER: Yes, go ahead.
9 COUNCILPERSON BOTEL: With the caveat that
10 you can participate, but not vote. Am I right?
11 MS. WYNN: No voting occurs -- generally no
12 voting occurs at closed sessions. However, if they do
13 occur, Mr. McCoy would not be able to participate in
14 the voting.
15 COUNCILPERSON McCOY: But --
16 VICE CHAIR MILLER-ANDERSON: Madam Chair.
17 CHAIR LANIER: Yes, go ahead.
18 VICE CHAIR MILLER-ANDERSON: I think there's
19 been a time when I was sick and I was unable to -- I
20 wasn't allowed to do the closed executive session
21 telephonically.
22 CHAIR LANIER: I remember that as well.
23 VICE CHAIR MILLER-ANDERSON: So that is not
24 (inaudible).
25 MS. WYNN: Since I have been here, Madam Pro

1 Tem?

2 CHAIR LANIER: Yes, yes.

3 VICE CHAIR MILLER-ANDERSON: Yes.

4 CHAIR LANIER: Yes.

5 MS. WYNN: I'm sorry, I don't recall that.

6 Okay. Do you remember -- do you recall what case that
7 was in?

8 VICE CHAIR MILLER-ANDERSON: No.

9 MS. WYNN: Okay.

10 VICE CHAIR MILLER-ANDERSON: But I can go
11 back and look, but that definitely occurred.

12 COUNCILPERSON McCOY: Well, Madam Chair.

13 CHAIR LANIER: Yes, go ahead, sir.

14 COUNCILPERSON McCOY: It doesn't -- I don't
15 want to be there in the first place, so you don't have
16 to worry about it. If there's, you know, concerns that
17 it wasn't allowed, then, you know, I'll just even
18 withdraw even asking.

19 CHAIR LANIER: Thank you, sir.

20 Any other questions in regards to the
21 announcement?

22 COUNCILPERSON BOTEL: Madam Chair.

23 CHAIR LANIER: Yes, go ahead.

24 COUNCILPERSON BOTEL: There are still some
25 pieces of information that I would like to see before

1 we have a closed session. I'm wondering if this is an
2 appropriate time to ask for those.

3 CHAIR LANIER: Yes, go ahead.

4 COUNCILPERSON BOTEL: Could we -- do we have
5 copies of the attorneys' fees that we're being asked to
6 vote on, copies of any billing records or other papers
7 that you've been provided with as part of that
8 attorneys' fees request?

9 MS. WYNN: I will check with Mr. Stephens.
10 We will confer and see if the law allows us to provide
11 those, and if so, we will provide them to you,
12 Dr. Botel, to all of you.

13 COUNCILPERSON BOTEL: Okay.

14 VICE CHAIR MILLER-ANDERSON: Madam Chair.

15 CHAIR LANIER: Yes, go ahead.

16 VICE CHAIR MILLER-ANDERSON: You're asking
17 for fees that the plaintiff, the attorneys' fees for
18 the plaintiff?

19 COUNCILPERSON BOTEL: Yes, because we're
20 being asked to spend \$255,000, plus 60, and I just want
21 to know what that constitutes, you know. Originally it
22 was 400 some thousand. I want to know do they -- did
23 they break that billing down by charge or by -- how is
24 it broken down, what were their hourly rates, all the
25 typical things that you would want to look at before

1 you make a determination as to whether or not this is
2 an appropriate fee.

3 VICE CHAIR MILLER-ANDERSON: Okay, I
4 wasn't -- I just wanted to know which one you were
5 talking about, just clarify it.

6 And I was going to go back to Ms. Wynn. If
7 we're the ones that's being asked to pay that or
8 consider that amount, why would it not be legal for us
9 to get it?

10 MS. WYNN: I just need to double-check. I'm
11 just not sure, Madam Pro Tem.

12 VICE CHAIR MILLER-ANDERSON: Okay, all right.

13 COUNCILPERSON BOTEL: And the other thing I'd
14 like to know -- I'm sorry. Madam Chair.

15 CHAIR LANIER: Yes, go ahead.

16 COUNCILPERSON BOTEL: We've been told by
17 the -- well, you told us that the insurance company
18 said that they would not pay any more fees after, I
19 think it was October 8th. I want to know the specific
20 sections of our insurance agreements the carrier
21 believes to be justification for that, for that
22 declaration that they're not going to any longer pay
23 us. I mean it just doesn't seem right if we're paying
24 it. We've been paying into our insurance bills all
25 this time, and now all of a sudden they're not going to

1 represent us any longer.

2 VICE CHAIR MILLER-ANDERSON: Madam Chair.

3 CHAIR LANIER: Yes, go ahead.

4 VICE CHAIR MILLER-ANDERSON: I think
5 probably, Ms. Wynn, could you please advise us if this
6 is something we need to be talking about right now,
7 because some of this stuff, I don't know that this is
8 publicly said. So please let us know --

9 MS. WYNN: Right, the discussion --

10 VICE CHAIR MILLER-ANDERSON: -- if there are
11 some things we need to hold off on until Monday.

12 MS. WYNN: That's correct. The discussion
13 tonight needs to be limited to the closed executive
14 session.

15 But Dr. Botel, you and I can talk after.
16 Whatever information I provide to you I will provide to
17 the balance of the Council.

18 COUNCILPERSON BOTEL: Okay.

19 CHAIR LANIER: And I'll also put my request
20 in writing for what I need for the session for Monday
21 as well.

22 MS. WYNN: Thank you.

23 CHAIR LANIER: Any other questions in regards
24 to this session?

25 Because this is the only issue that is on the

1 agenda, we do have public comments. Please be reminded
2 the City Council has adopted rules of decorum governing
3 public conduct during official meetings which has been
4 posted at the front desk. In an effort to preserve
5 order, if any of the rules are not adhered to, the
6 Council Chair may have any disruptive speaker or
7 attendee removed from the podium, from the meeting
8 and/or the building, if necessary. Please govern
9 yourselves accordingly.

10 Public comment shall begin at 7:30 p.m.
11 unless there is no further business of the City
12 Council, which in the event, it shall begin sooner. In
13 addition, if any of the items are being considered
14 after 7:30 or at 7:30, then comments from the public
15 shall begin immediately after the item has been
16 concluded. Any person who would like to speak during
17 public comments, please fill out a public comment card
18 located at the front desk, and give it to the staff
19 before the public comment section is announced.

20 Madam Clerk.

21 CITY CLERK ANTHONY: Madam Chair, Members of
22 the Board, the acceptance of public comment cards is
23 now closed.

24 Cindy March, Margaret Shepherd, Bessie Brown.

25 MS. MARCH: Good evening. I want to

1 elaborate also on the statement that Tradrick McCoy had
2 made a statement of. You all don't have closed
3 sessions more than one time, if I'm not mistaken. You
4 all going to mess around. No insurance company going
5 to want to pick you up. You all have too many lawsuits
6 on your hands already, and this is just a personal
7 vendetta since day one.

8 Lanier, you even went over and beyond and
9 called the insurance company yourself directly and said
10 don't pay Ladi March Goldwire, and now you wonder why
11 you don't have a job with the County? What goes
12 around, comes around.

13 You all going to have to be careful. You
14 have a lawyer that you all hired. You have a City
15 Manager that you all brought back here. You say you
16 didn't care what it cost, bring him back. He's not
17 only our City Manager, he's our CRA Director as well.
18 So if you all not going to listen to them, who are you
19 all going to listen to? You all going to mess around,
20 and the City is not going to be able to heal because of
21 KaShamba, Lanier and Botel throw rocks, hide their
22 hands.

23 What you all so against Ladi March? Why?
24 She couldn't have been too bad of a person to bring
25 \$13 million into the City. Come on, her work spoke for

1 itself. She even went to jail. She even lost a
2 \$700,000 contract. If you want the transcript, get the
3 transcript, but trust and believe you going to open up
4 a whole can of worms that's going to be able to bring
5 back that whistleblower case, going to be able to bring
6 back that Jennifer Cassin (phonetic) case.

7 If you want to be hypothetical with
8 (inaudible) as far as the amount or what you paying the
9 lawyer, ask about the private lawyer that you paid
10 \$600,000 to. Who paid for that fee?

11 Come on, let's get realistic. You all say
12 you all want to move this city forward, and I know I
13 can be like I'm a (inaudible). I'm aggravated. And I
14 want to move the -- see you all move the City forward,
15 but you all need to be removed. If you're not going to
16 do what we voted you all in to do, then you need to
17 leave. Point simple blank as that.

18 Your whole file was out there on social
19 media, and it would have still been out there, but Ladi
20 March Goldwire asked them don't do that. Even though
21 it was done to me, don't do it to Lanier. You reap
22 what you sow.

23 We don't need to be elaborating on this no
24 more. We don't have too many closed session, too many
25 open session and nothing getting done, so why do you

1 have a City Manager? Why do you have a lawyer? And
2 I'm quite sure she know her job. It's like you
3 question her job.

4 Botel, if you wanted to be the lawyer for the
5 City, you should have filled out an application.
6 Point-blank simple as that. You, Lanier and KaShamba
7 going to cost this City a whole lot of money. And
8 before I close, KaShamba, your job is even on the line
9 with the accounting, so be mindful what you do to
10 others.

11 CITY CLERK ANTHONY: Margaret Shepherd,
12 Bessie Brown --

13 CHAIR LANIER: Thank you for your comments.

14 CITY CLERK ANTHONY: -- William Wyly.

15 MS. SHEPHERD: Margaret Shepherd, Riviera
16 Beach.

17 I'm kind of confused. She said that KaShamba
18 worked for the County? I don't think so. You come up
19 here and give misinform, it makes you look kind of
20 stupid. Get the facts. And I think we're here to get
21 the facts.

22 I do have a problem with continuing closed
23 executive sessions, because once you all come out of
24 the executive sessions, then on the dais you all start
25 vetting it all over again. I remember when Pamala

1 Hannah Ryan, she kept instructing the Council that what
2 they're doing, you're giving the other side the upper
3 hand what you're thinking. And I've had lawyers, and
4 the first thing they instructed me, don't answer no
5 questions. That's what you hired me for. So I came
6 out victorious because I obeyed my attorney.

7 I really don't know what's going on. I
8 really hope that this ends. I hope that we can -- I
9 don't know about healing, because it look like once we
10 start trusting, there's something breaking loose on
11 another ending.

12 I want to implore you to know one thing, that
13 I hope when you go into this executive session that you
14 all come out with some type of way you're going to end
15 this discretion, because to me, it's all over the
16 paper, they continue to call us losers, and it's just a
17 bad taste that we continue with the same thing.

18 So I just -- that's just the way I feel. I
19 think for the first time I have to agree with Tradrick.
20 To continue to come here and beat this horse?

21 And I thank Mr. Wyly for allowing me to
22 debate with him, because he said yes, keep on with the
23 lawsuit, keep on with it. So it was just refreshing to
24 hear a young person talk about it and get their views,
25 and then you get the older set of people and say they

1 want it to end. So where do we go from here? We have
2 to come to some type of agreement. Thank you.

3 Mr. Lawson, may I say congratulations, sir.
4 I wish you and Jade well. Thank you.

5 CHAIR LANIER: Thank you for your comments.

6 CITY CLERK ANTHONY: Bessie Brown, William
7 Wyly, Mary Brabham.

8 MS. BROWN: Good evening, Council.

9 I just have to say Mrs. Botel asked for all
10 the paperwork and the stuff about paying the attorney
11 fees. Were you all given the same information for the
12 other attorney, for Attorney Stephens? So I don't
13 understand. With whatever information you've been
14 given, you should have been able to make the decision.
15 But I'd like to know do you have the same kind of
16 information from Mr. Stephens' bill?

17 CHAIR LANIER: Thank you for your comments.

18 CITY CLERK ANTHONY: William Wyly, Mary
19 Brabham.

20 MR. WYLY: Good evening, Board. My name is
21 William Wyly, a lifelong resident here in Rivera Beach,
22 and also tonight a concerned citizen.

23 This case is long overdue, like we spoke of,
24 and needs to be concluded. It needs to be finished
25 ASAP. But this case is not of a personal vendetta or

1 some attack on a past employee. This case, as
2 important as it is, is going to set a precedent for
3 future cases to come. Any employee that gets fired for
4 legitimate reasons or even reasons that's upheld in
5 court will be subject to the City to be able to pay
6 their legal fines.

7 This case was settled for \$60,000 and given
8 no clear-cut evidence to support that, so the City has
9 filed a motion to challenge that amount. We should
10 have set a motion to challenge that amount. The ball
11 got dropped somehow, and now we're in a situation to
12 now we're back in court.

13 We pay \$60,000 for the case, \$255,000 for the
14 lawyers and \$200,000 for insurance deductible. It's
15 just like getting in a car wreck, you have to pay a
16 \$500 deductible, they pay the rest of it off. So we
17 have to pay the insurance company a deductible. So
18 over half a million dollars for a case we won doesn't
19 make any sense, not at all, in no way whatsoever.

20 For the people on the Council who support
21 this payout, I would let you know that this is not in
22 the best interests of the City. And your job as
23 Council is to protect the City, the land, the finances
24 and this community. There's no gray area when it comes
25 to that. The judge threw out all motions made in this

1 case pertaining to the firing, so this recommendation
2 for any payout is unacceptable and will change all
3 future terminations at the City of Riviera Beach.

4 Mr. Evans and this City, this is why it's
5 important to have the right people in the right
6 positions to be able to make the right decisions.

7 Thank you.

8 CHAIR LANIER: Thank you for your comment,
9 sir.

10 CITY CLERK ANTHONY: Mary Brabham.

11 MS. BRABHAM: Mary Brabham. Can you all hear
12 me?

13 CHAIR LANIER: Yes, ma'am.

14 MS. BRABHAM: Mary Brabham, Riviera Beach.

15 First of all, residents, get up and vote.
16 Get up and vote like you never have voted before.

17 I would like to say on October the 16, which
18 is tomorrow, it is Boss Day. And I'm going to say
19 thank you for all the bosses that are in here that
20 governs everyone.

21 And City Manager Mr. Evans, you are the boss
22 of this entire City. You work hard at being a terrific
23 boss. And what it does gets you, well, for one thing,
24 this card which says: Happy Boss Day to a hardworking
25 and terrific boss. That's for you, Mr. Evans. You are

1 the CEO of this (inaudible).

2 Okay, I'm going to make some -- clear up some
3 things here, because you can go back in the files and
4 pull it. Mr. Evans was brought back here because the
5 court said that Mr. Evans could come back here. The
6 court ruled in favor of Mr. Evans, along with the City.
7 So when we stand up here, get the facts.

8 All of that that happened in 2017, we went
9 back in the courthouse. The court -- Mr. Evans is here
10 because of the court, the ruling court system. This is
11 why he is here, because it was flaws then, and you
12 continuously do the same thing. When it's made mention
13 about the City does not get in the way of we lose
14 cases, we just won, we just stopped a \$60 million case
15 that was brought for from a victim in the City here,
16 and it pertained to our Police Department. Go look it
17 up. October the 13, a \$60 million case.

18 And other cases that Ms. Brabham can stand up
19 here and tell you all about. Sometimes we have to do
20 the actions that we need to do in order to bring who we
21 are and bring clarity to these things here. Go look it
22 up. Other cases Ms. Brabham can give you too. But I
23 wanted to just to give you an update on that one.

24 \$60 million lawsuit that he had against the City, and
25 the City's came out unscaled. Am I right, Attorney?

1 Smile then. That's one thing there.

2 Another thing is all of these here meetings
3 like this, come on, whoever called them, and stop this
4 foolishness. Stop this foolishness. As a Board,
5 whatever decision is going to be made, do it. Like I
6 said before, we will live with it.

7 But all of these special meetings here, all
8 you're doing is making yourself looking bad in the
9 public, because the public is tired of you all. I can
10 tell you, the public is absolutely fed up with some of
11 you all. Even the politicians, they are fed up.
12 They're fed up.

13 CHAIR LANIER: Thank you for your comments.

14 MS. BRABHAM: Thank you.

15 CITY CLERK ANTHONY: Madam Chair, Members of
16 the Board, that concludes public comment.

17 CHAIR LANIER: Do we have any discussions by
18 the City Manager?

19 EXECUTIVE DIRECTOR JONATHAN EVANS: No, Madam
20 Chair. Thank you.

21 CHAIR LANIER: Any discussion by the City
22 Attorney?

23 MS. WYNN: No, Madam Chair. Thank you.

24 CHAIR LANIER: Any City Council committee
25 reports?

1 We'll start with the Mayor. Any comments,
2 sir?

3 MAYOR FELDER: No comments, Chair.

4 CHAIR LANIER: Any comments from Councilman
5 Lawson?

6 COUNCILPERSON LAWSON: No, Madam Chair.

7 CHAIR LANIER: Any comments from Councilman
8 McCoy?

9 COUNCILPERSON McCOY: No.

10 CHAIR LANIER: Any comments from Councilwoman
11 Botel?

12 COUNCILPERSON BOTEL: No.

13 CHAIR LANIER: Any comments from Councilwoman
14 Miller-Anderson?

15 VICE CHAIR MILLER-ANDERSON: No.

16 CHAIR LANIER: And this meeting is
17 adjourned.

18 (Whereupon, at 6:26 p.m., the proceedings
19 were concluded.)

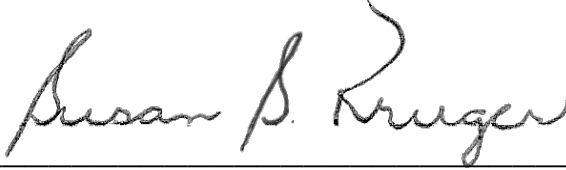
C E R T I F I C A T E

THE STATE OF FLORIDA)
COUNTY OF PALM BEACH)

I, Susan S. Kruger, do hereby certify that I was authorized to and did report the foregoing proceedings, and that the foregoing pages comprise a true and correct transcription of my stenotype notes taken of the proceedings.

The certification of this transcript does not apply to any reproduction of the same by any means unless under the control and/or direction of the certifying reporter.

IN WITNESS WHEREOF, I have hereunto set my hand this 11th day of January, 2022.



Susan S. Kruger

1 ADJOURNMENT

2 The Special City Council Meeting was
3 adjourned at 6:26 p.m. The minutes were approved by
4 the City Council on _____.

5
6
7 _____
8 Shirley Lanier, Chairperson

9
10 _____
Jonathan Evans, City Manager

WORD INDEX

< \$ >

\$13 14:25

\$200,000 19:14

\$255,000 10:20 19:13

\$500 19:16

\$60 21:14, 17, 24

\$60,000 19:7, 13

\$600,000 15:10

\$700,000 15:2

< 1 >

11th 24:18

13 21:17

13th 1:8 7:14

15 1:9 2:3

15th 2:8

16 20:17

18th 6:6 7:13

190 1:8 7:14

< 2 >

2017 21:8

2021 1:9 2:3 6:6
7:13

2022 24:18

286.011(8)(d 5:20

< 3 >

33404 7:15

< 4 >

400 10:22

< 6 >

6 7:14

6:00 6:6

6:01 1:9 2:4, 8

6:26 1:9 23:18 25:3

60 10:20

< 7 >

7:30 13:10, 14

< 8 >

8th 11:19

< 9 >

9-18-CV-081285 5:11

9-18-CV-81285 5:25
7:17

< A >

able 8:4, 13 14:20

15:4, 5 18:14 19:5

20:6

absolutely 22:10

acceptance 13:22

accounting 16:9

actions 21:20

addition 13:13

additions 3:15

adhered 13:5

adjourned 23:17

25:3

ADJOURNMENT

25:1

adopt 4:8

adopted 13:2

advice 5:21

advise 12:5

afternoon 2:6

agenda 3:16 4:6, 8,
11, 19 13:1

aggravated 15:13

agree 17:19

agreement 18:2

agreements 11:20

ahead 5:18 6:8 7:1

8:2, 8, 17 9:13, 23

10:3, 15 11:15 12:3

Allegiance 3:12, 14

allowed 8:20 9:17

allowing 17:21

allows 10:10

amount 11:8 15:8

19:9, 10

and/or 7:19 13:8

24:15

announce 5:9, 16

announced 13:19

announcement 9:21

answer 17:4

Anthony 1:25 2:10,

12, 15, 18, 21, 24 3:2,

5, 6, 9 4:12, 20, 22, 24

5:1, 3, 5, 8, 13 13:21

16:11, 14 18:6, 18

20:10 22:15

application 16:5

apply 24:14

appropriate 10:2

11:2

approval 4:14, 18

approved 5:5 25:3

area 19:24

ASAP 18:25

asked 10:5, 20 11:7

15:20 18:9

asking 9:18 10:16

Assistant 7:19

attack 19:1

ATTENDANCE 1:11

7:18

attendances 6:12

attendee 13:7

attendees 2:4

Attorney 1:24 3:7

5:18 6:2 7:19, 20

17:6 18:10, 12 21:25

22:22

attorneys 6:3 7:25

10:5, 8, 17

authorized 24:9

available 5:22 6:5,

10, 22 7:2, 3, 4, 7, 10

< B >

back 9:11 11:6

14:15, 16 15:5, 6

19:12 21:3, 4, 5, 9

bad 14:24 17:17

22:8

balance 12:17

ball 19:10

BEACH 1:1, 8 5:10,

24 7:15, 16 16:16

18:21 20:3, 14 24:5

beat 17:20

beginning 2:3

believe 15:3

believes 11:21

Bessie 13:24 16:12

18:6

best 19:22

beyond 14:8

bill 18:16

billing 10:6, 23

bills 11:24

blank 15:17

Board 13:22 18:20

22:4, 16

Boss 20:18, 21, 23, 24,

25

bosses 20:19

Botel 1:22 2:25 3:1,

12, 22 4:3, 9, 22, 23

7:4, 7, 9 8:7, 9 9:22,

24 10:4, 12, 13, 19

11:13, 16 12:15, 18

14:21 16:4 18:9

23:11, 12

Brabham 18:7, 19

20:10, 11, 14 21:18,

22 22:14

break 10:23

breaking 17:10

bring 14:16, 24 15:4,

5 21:20, 21

broken 10:24

brought 14:15 21:4,

15

Brown 13:24 16:12

18:6, 8

building 13:8

Busby 7:19

business 13:11

< C >

call 2:7 3:20 4:13,

18 17:16

called 14:9 22:3

car 19:15

card 13:17 20:24

cards 13:22

care 14:16

careful 14:13

carrier 11:20

case 5:10, 24 7:15,

17 9:6 15:5, 6 18:23,

25 19:1, 7, 13, 18

20:1 21:14, 17

cases 19:3 21:14, 18,

22

Cassin 15:6

caveat 8:9

Center 1:6 2:3 7:14	5:1, 3, 5, 8, 13 13:20, 21 16:11, 14 18:6, 18 20:10 22:15	COUNCIL 1:1 2:2, 7 4:5 5:22 6:2, 4 7:22 12:17 13:2, 6, 12 17:1 18:8 19:20, 23 22:24 25:2, 4	14:17 22:19
CEO 21:1	close 16:8	Councilman 23:4, 7	disclosures 4:4
certification 24:13	closed 5:9, 23 6:2, 5, 16, 18 7:12, 23 8:12, 20 10:1 12:13 13:23 14:2 15:24 16:22	Councilperson 2:18, 20, 21, 23, 24 3:1, 19, 22, 24 4:7, 9, 10, 20, 21, 22, 23, 24, 25 5:6 6:7, 9 7:4, 6, 7, 8, 9, 10 8:1, 3, 7, 9, 15 9:12, 14, 22, 24 10:4, 13, 19 11:13, 16 12:18 23:6, 9, 12	discretion 17:15
certify 24:8	come 6:14 14:25 15:11 16:18, 23 17:14, 20 18:2 19:3 21:5 22:3	Councilwoman 23:10, 13	discuss 6:3
certifying 24:16	comes 14:12 19:24	counsel 6:1 7:20	discussion 3:25 5:8, 14 7:24 12:9, 12 22:21
Chair 1:21 2:6, 14, 15, 17 3:9, 10, 15, 18 4:4, 8, 11, 12, 14 5:2, 3, 4, 7, 12, 13, 15, 17 6:7, 8, 23, 25 7:1, 2, 3, 5, 6, 11 8:1, 2, 7, 8, 16, 17, 18, 22, 23 9:2, 3, 4, 8, 10, 12, 13, 19, 22, 23 10:3, 14, 15, 16 11:3, 12, 14, 15 12:2, 3, 4, 10, 19, 23 13:6, 21 16:13 18:5, 17 20:8, 13 22:13, 15, 17, 20, 21, 23, 24 23:3, 4, 6, 7, 10, 13, 15, 16	comment 13:10, 17, 19, 22 20:8 22:16	County 14:11 16:18 24:5	disruptive 13:6
Chairperson 2:12 4:3 25:7	comments 6:24 13:1, 14, 17 16:13 18:5, 17 22:13 23:1, 3, 4, 7, 10, 13	couple 6:9, 19	dissenting 5:6
challenge 19:9, 10	Commissioner 1:22, 23	court 19:5, 12 21:5, 6, 9, 10	doing 17:2 22:8
change 20:2	committee 22:24	courthouse 21:9	dollars 19:18
charge 10:23	community 19:24	CRA 14:17	Don 7:20
check 10:9	company 11:17 14:4, 9 19:17	< D >	door 6:2
Cindy 13:24	comprise 24:10	dais 4:17 16:24	double-check 11:10
citizen 18:22	concerned 18:22	Dawn 1:24 3:7 7:19	Douglas 1:22 2:21
CITY 1:1, 24, 25 2:2, 7, 10, 12, 15, 18, 21, 24 3:2, 5, 7, 9 4:12, 20, 22, 24 5:1, 3, 5, 8, 10, 13, 22, 24 6:1 7:16, 18, 20, 21, 22 13:2, 11, 21 14:14, 17, 20, 25 15:12, 14 16:1, 5, 7, 11, 14 18:6, 18 19:5, 8, 22, 23 20:3, 4, 10, 21, 22 21:6, 13, 15, 24 22:15, 18, 21, 24 25:2, 4, 10	concerning 5:21	day 7:13 14:7 20:18, 24 24:18	Dr 3:12 10:12 12:15
City's 21:25	concerns 9:16	debate 17:22	dropped 19:11
clarify 11:5	concluded 13:16 18:24 23:19	decision 18:14 22:5	< E >
clarity 21:21	concludes 22:16	decisions 20:6	East 1:8 7:14
Claudene 1:25 3:5	conduct 13:3	declaration 11:22	effort 13:4
clear 21:2	confer 10:10	decorum 13:2	elaborate 14:1
clear-cut 19:8	confused 16:17	deductible 19:14, 16, 17	elaborating 15:23
Clerk 1:25 2:9, 10, 12, 15, 18, 21, 24 3:2, 5, 9 4:12, 20, 22, 24	congratulations 18:3	definitely 9:11	employee 19:1, 3
	consent 4:11	delete 3:19	ends 17:8
	consider 11:8	deletions 3:16	entire 20:22
	considered 13:13	deliberation 5:9	Esquire 7:20
	constitutes 10:21	desire 5:21	Evans 1:24 3:3, 4, 17 7:22 20:4, 21, 25 21:4, 5, 6, 9 22:19 25:10
	continue 17:16, 17, 20	desk 13:4, 18	evening 13:25 18:8, 20
	continuing 16:22	determination 11:1	Event 1:6 2:3 7:14 13:12
	continuously 21:12	direction 24:15	evidence 19:8
	contract 15:2	directly 14:9	Executive 1:24 3:4, 17 5:23 6:5 7:12, 23 8:20 12:13 16:23, 24 17:13 22:19
	control 24:15	Director 1:24 3:4, 17	< F >
	conversation 6:18		facetious 3:23 4:1
	copies 10:5, 6		fact 6:10
	correct 12:12 24:11		facts 16:20, 21 21:7
	cost 14:16 16:7		far 15:8
	costs 6:3 7:25		fashion 6:11
			favor 21:6

fed 22:10, 11, 12
fee 11:2 15:10
feel 17:18
fees 6:3 7:25 10:5, 8, 17 11:18 18:11
Felder 1:23 2:10 7:21 23:3
file 15:18
filed 19:9
files 21:3
fill 13:17
filled 16:5
finances 19:23
fines 19:6
finished 18:24
fired 19:3
firing 20:1
first 9:15 17:4, 19 20:15
flaws 21:11
Florida 1:8 5:19 7:15 24:4
followed 3:11
following 2:1
foolishness 22:4
foregoing 24:9, 10
forward 15:12, 14
four 6:11
Friday 1:9 2:3, 7
front 13:4, 18
further 13:11
future 19:3 20:3

< G >
generally 8:11
getting 15:25 19:15
give 13:18 16:19 21:22, 23
given 18:11, 14 19:7
giving 17:2
Go 5:17 6:8, 15 7:1 8:2, 8, 17 9:10, 13, 23 10:3, 15 11:6, 15 12:3 17:13 18:1 21:3, 16, 21
goes 14:11
going 6:13 8:4 11:6, 22, 25 14:4, 13, 18, 19, 20 15:3, 4, 5, 15 16:7

17:7, 14 19:2 20:18 21:2 22:5
Goldwire 5:10, 24 7:16 14:10 15:20
Good 2:6 5:17 7:11 13:25 18:8, 20
govern 13:8
governing 13:2
governs 20:20
gray 19:24
guess 6:11

< H >
half 19:18
hand 17:3 24:18
hands 14:6, 22
Hannah 17:1
happened 21:8
Happy 20:24
hard 20:22
hardworking 20:24
heal 14:20
healing 17:9
hear 17:24 20:11
heard 6:14
held 7:13
hereinabove 2:4
hereunto 24:17
hide 14:21
hired 14:14 17:5
hold 12:11
hope 17:8, 13
horse 17:20
hourly 10:24
hours 6:17, 19
hypothetical 15:7

< I >
immediately 13:15
implore 17:12
important 19:2 20:5
Inaudible 4:7 8:24 15:8, 13 21:1
information 9:25 12:16 18:11, 13, 16
instructed 17:4
instructing 17:1
insurance 11:17, 20, 24 14:4, 9 19:14, 17

interests 19:22
issue 12:25
item 3:19 4:5 5:7 6:18 13:15
items 13:13

< J >
Jade 18:4
jail 15:1
January 24:18
Jennifer 15:6
job 14:11 16:2, 3, 8 19:22
Jonathan 1:24 3:2, 4, 17 7:22 22:19 25:10
judge 19:25
Julia 1:22 2:24
justification 11:21

< K >
KaShamba 1:21 2:15 14:21 16:6, 8, 17
keep 17:22, 23
kept 17:1
kind 16:17, 19 18:15
know 6:4, 13, 16 9:16, 17 10:21, 22 11:4, 14, 19 12:7, 8 15:12 16:2 17:7, 9, 12 18:15 19:21
Kruger 24:8, 22

< L >
Ladi 5:10, 23 7:16 14:10, 23 15:19
land 19:23
Lanier 1:21 2:6, 13, 14 3:10, 15 4:4, 8, 11, 14 5:3, 4, 7, 12, 17 6:8, 23 7:1, 3, 5, 11 8:2, 8, 17, 22 9:2, 4, 13, 19, 23 10:3, 15 11:15 12:3, 19, 23 14:8, 21 15:21 16:6, 13 18:5, 17 20:8, 13 22:13, 17, 21, 24 23:4, 7, 10, 13, 16 25:7
law 10:10

Lawson 1:22 2:22, 23 4:10, 24, 25 7:5, 6, 8, 10 18:3 23:5, 6
lawsuit 17:23 21:24
lawsuits 14:5
lawyer 14:14 15:9 16:1, 4
lawyers 17:3 19:14
leave 15:17
legal 11:8 19:6
legitimate 19:4
lifelong 18:21
limited 12:13
Lina 7:19
line 16:8
listed 4:5
listen 14:18, 19
litigation 5:21
live 22:6
located 13:18
long 18:23
longer 11:22 12:1
look 9:11 10:25 16:19 17:9 21:16, 21
looking 22:8
loose 17:10
lose 21:13
losers 17:16
lost 15:1
lot 16:7

< M >
ma'am 20:13
Madam 2:9 3:9, 18 4:12 5:13, 15, 18 6:7, 25 7:6 8:1, 7, 16, 25 9:12, 22 10:14 11:11, 14 12:2 13:20, 21 22:15, 19, 23 23:6
making 22:8
Manager 3:2 7:22 14:15, 17 16:1 20:21 22:18 25:10
March 5:10, 24 7:16 13:24, 25 14:10, 23 15:20
Margaret 13:24 16:11, 15
Marina 1:6 2:2 7:14

Mary 18:7, 18 20:10, 11, 14 matter 5:23 7:23 Mayor 1:23 2:10 3:20 4:16 7:21 23:1, 3 McCoy 1:23 2:19, 20 3:19, 24 4:7, 20, 21 5:6 6:7, 9 8:1, 3, 13, 15 9:12, 14 14:1 23:8, 9 mean 3:20, 25 11:23 means 24:15 media 15:19 Meeting 1:2 2:2, 7 5:9 6:12, 20 7:8 13:7 23:16 25:2 meetings 5:20 13:3 22:2, 7 Members 7:21 13:21 22:15 mention 21:12 mess 14:4, 19 Miller-Anderson 1:21 2:16, 17 5:1, 2 6:25 7:2 8:16, 18, 23 9:3, 8, 10 10:14, 16 11:3, 12 12:2, 4, 10 23:14, 15 million 14:25 19:18 21:14, 17, 24 mindful 16:9 minutes 25:3 misinform 16:19 mistaken 14:3 moment 3:11, 13 Monday 6:5, 10 7:9 12:11, 20 money 16:7 motion 4:8, 13 5:5, 12, 14 19:9, 10 motions 19:25 move 15:12, 14 moved 4:9 < N > name 18:20 necessary 13:8 need 4:12 5:14, 15 6:15, 20 11:10 12:6,	11, 20 15:15, 16, 23 21:20 needs 12:13 18:24 never 20:16 noted 2:4 notes 24:11 number 3:20 5:7, 11, 25 7:17 < O > obeyed 17:6 observed 3:13 obtain 5:21 occur 8:13 occurred 9:11 occurs 8:11, 12 October 1:9 2:3, 8 6:6 7:13 11:19 20:17 21:17 official 6:11 13:3 oh 4:1, 14 Okay 9:6, 9 10:13 11:3, 12 12:18 21:2 older 17:25 Olds 7:21 once 16:23 17:9 ones 11:7 open 15:3, 25 order 13:5 21:20 Originally 10:21 Outside 6:1 overdue 18:23 < P > p.m 1:9 2:4, 8 6:6 7:14 13:10 23:18 25:3 pages 24:10 paid 15:9, 10 PALM 24:5 Pamala 16:25 paper 17:16 papers 10:6 paperwork 18:10 part 10:7 participate 8:5, 10, 13 pay 11:7, 18, 22 14:10 19:5, 13, 15, 16, 17	paying 11:23, 24 15:8 18:10 payout 19:21 20:2 people 17:25 19:20 20:5 person 13:16 14:24 17:24 personal 14:6 18:25 persons 7:18 pertained 21:16 pertaining 20:1 phonetic 15:6 pick 14:5 pieces 9:25 place 9:15 plaintiff 10:17, 18 please 12:5, 8 13:1, 8, 17 Pledge 3:12, 13 plus 10:20 podium 13:7 Point 15:17 Point-blank 16:6 Police 21:16 politicians 22:11 positions 20:6 posted 13:4 precedent 19:2 Present 2:17 3:4, 6 preserve 13:4 presumes 3:22 private 15:9 Pro 2:15 5:1 8:25 11:11 probably 12:5 problem 16:22 proceedings 23:18 24:10, 12 protect 19:23 provide 10:10, 11 12:16 provided 10:7 public 5:20 6:20 13:1, 3, 10, 14, 17, 19, 22 22:9, 10, 16 publicly 12:8 pull 21:4 Pursuant 5:19 put 12:19	< Q > question 4:18 16:3 questions 9:20 12:23 17:5 quite 16:2 < R > rates 10:24 realistic 15:11 really 17:7, 8 reap 15:21 reasons 19:4 recall 9:5, 6 recited 3:14 recognize 4:16 recommendation 20:1 records 5:20 10:6 refreshing 17:23 regarding 6:18 regards 4:5 9:20 12:23 remember 8:22 9:6 16:25 REMEMBERED 2:1 reminded 13:1 remotely 8:5 removed 13:7 15:15 report 24:9 reporter 24:16 reports 22:25 represent 12:1 reproduction 24:14 request 10:8 12:19 requesting 5:22 resident 18:21 residents 20:15 response 2:11 rest 19:16 restricted 7:24 right 5:17 8:10 11:12, 23 12:6, 9 20:5, 6 21:25 Rivera 18:21 RIVIERA 1:1, 8 5:10, 24 7:15, 16 16:15 20:3, 14 rocks 14:21 Ronnie 1:23 2:10
---	---	---	--

ruled 21:6	spoke 14:25 18:23	threw 19:25	want 6:17 9:15
rules 13:2, 5	staff 3:18 13:18	throw 14:21	10:20, 22, 25 11:19
ruling 21:10	stand 21:7, 18	time 5:22 8:19 10:2	13:25 14:5 15:2, 7,
Ryan 17:1	start 16:24 17:10	11:25 14:3 17:19	12, 14 17:12 18:1
< S >	23:1	tired 22:9	wanted 11:4 16:4
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sooner 13:12	20, 23	victim 21:15	Wynn 1:24 3:7, 8
sorry 9:5 11:14	thing 11:13 17:4, 12,	victorious 17:6	5:15, 19 7:12, 19 8:3,
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APPROVED:

RONNIE L. FELDER
MAYOR

SHIRLEY D. LANIER
CHAIRPERSON

ATTEST:

CLAUDENE L. ANTHONY
CERTIFIED MUNICIPAL CLERK
CITY CLERK

KASHAMBA MILLER-ANDERSON
CHAIR PRO TEM

TRADRICK MCCOY
COUNCILPERSON

JULIA A. BOTEL, Ed.D
COUNCILPERSON

DOUGLAS A. LAWSON
COUNCILPERSON

MOTIONED BY: _____

SECONDED BY: _____

T. MCCOY _____
K. MILLER-ANDERSON _____
S. LANIER _____
J. BOTEL _____
D. LAWSON _____

DATE APPROVED: **FEBRUARY 2, 2022**

Village of Wellington

*12300 Forest Hill Blvd
Wellington, FL 33414*



Action Summary - Final

Tuesday, August 8, 2023

7:00 PM

Village Hall - Council Chambers

Village Council

*Anne Gerwig, Mayor
Michael Napoleone, Vice Mayor
John T. McGovern, Councilman
Michael Drahos, Councilman
Tanya Siskind, Councilwoman*

1. CALL TO ORDER

Mayor Gerwig called the meeting to order at 7:00 p.m.

Council Members present: Anne Gerwig, Mayor; Michael Napoleone, Vice Mayor; John T. McGovern, Councilman; Michael Drahos, Councilman; and Tanya Siskind, Councilwoman.

Advisors to the Council: Jim Barnes, Manager; Laurie Cohen, Attorney; Tanya Quickel, Deputy Village Manager; Ed De La Vega, Assistant Village Manager; and Chevelle D. Addie, Village Clerk.

2. PLEDGE OF ALLEGIANCE

Mayor Gerwig led the Pledge of Allegiance.

3. INVOCATION

Deacon Bob Rodriguez, St. Therese de Lisieux Catholic Church, delivered the invocation.

4. APPROVAL OF AGENDA

Mr. Barnes indicated staff recommended approval of the Agenda as presented.

A motion was made by Vice Mayor Napoleone, seconded by Councilman McGovern, and unanimously passed (5-0), to approve the Agenda as presented.

5. PRESENTATIONS AND PROCLAMATIONS

A. [23-5882](#) PROCLAMATION COMMEMORATING PALM BEACH STATE COLLEGE FOR 90 YEARS OF SERVICE TO PALM BEACH COUNTY

Mr. Barnes introduced the item.

Ms. Addie read the Proclamation into record.

Carolyn Williams, Palm Beach State College (PBSC) Board Chair, gave comments and thanked the Village for their support.

PBSC President Ava Parker gave comments.

Kimberly Lancaster, PBSC, provided statistics regarding Palm Beach State College.

The Village Council commended Palm Beach State College and thanked them for their service to the community and their partnership.

B. [23-5879](#)

RESOLUTIONS ADOPTING THE BUDGETS AND ASSESSMENT RATES FOR THE ACME IMPROVEMENT DISTRICT, WELLINGTON SOLID WASTE COLLECTION AND SADDLE TRAIL PARK NEIGHBORHOOD IMPROVEMENT DISTRICT; AND A RESOLUTION ADOPTING THE BUDGET FOR THE LAKE WELLINGTON PROFESSIONAL CENTRE.

I. RESOLUTION NO. AC2023-04: A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE ACME IMPROVEMENT DISTRICT ADOPTING THE DISTRICT BUDGET AND NON-AD VALOREM ASSESSMENT ROLL AS PROVIDED HEREIN; LEVYING OF THE NON-AD VALOREM ASSESSMENTS FOR THE DISTRICT AND APPOINTING AN AUTHORIZED REPRESENTATIVE OF THE DISTRICT FOR CERTIFICATION OF THE DISTRICT'S NON-AD VALOREM ASSESSMENT ROLL; AND PROVIDING AN EFFECTIVE DATE.

II. RESOLUTION NO. R2023-42: A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL ADOPTING THE SOLID WASTE COLLECTION PROGRAM BUDGET AND NON-AD VALOREM ASSESSMENT ROLL AND LEVYING THE NON-AD VALOREM ASSESSMENTS FOR SOLID WASTE COLLECTION AND DISPOSAL WITHIN THE JURISDICTIONAL BOUNDARIES OF WELLINGTON; PROVIDING FOR RATES AND APPOINTING AN AUTHORIZED REPRESENTATIVE OF WELLINGTON TO CERTIFY THE SOLID WASTE COLLECTION NON-AD VALOREM ASSESSMENT ROLL; AND PROVIDING AN EFFECTIVE DATE.

III. RESOLUTION NO. R2023-43: A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL ADOPTING THE LAKE WELLINGTON PROFESSIONAL CENTRE BUDGET FOR THE FISCAL YEAR COMMENCING OCTOBER 1, 2023, AND ENDING SEPTEMBER 30, 2024; AND PROVIDING AN EFFECTIVE DATE.

IV. RESOLUTION NO. R2023-44: A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL ADOPTING THE SADDLE TRAIL PARK NEIGHBORHOOD IMPROVEMENT DISTRICT NON-AD VALOREM ASSESSMENT ROLL AS PROVIDED HEREIN; LEVYING OF THE NON-AD VALOREM ASSESSMENTS FOR THE AREA AND APPOINTING AN AUTHORIZED REPRESENTATIVE OF

WELLINGTON FOR CERTIFICATION OF THE AREA'S NON-AD VALOREM ASSESSMENT ROLL; AND PROVIDING AN EFFECTIVE DATE.

Mr. Barnes introduced the item.

Ms. Addie read the Resolutions by title.

Ms. Quickel presented to Council the four resolutions adopting the budgets and rates for FY 2024 for Acme, Solid Waste, Lake Wellington Professional Centre, and Saddle Trail. She also reviewed the proposed FY 2024 Budgets, Budget Objectives, and Rates & Assessments accordingly.

Council provided comments regarding the ACME assessment.

Ms. Quickel responded to Council's questions.

Public Hearing:

A motion was made by Vice Mayor Napoleone, seconded by Councilman McGovern, and unanimously passed (5-0), to open the Public Hearing.

There being no public comments, a motion was made by Councilman McGovern, seconded by Councilwoman Siskind, and unanimously passed (5-0), to close the Public Hearing.

A motion was made by Vice Mayor Napoleone, seconded by Councilman McGovern, and unanimously passed (4-1; Mayor Gerwig dissenting), to approve Resolution No. AC2023-04 as presented.

A motion was made by Vice Mayor Napoleone, seconded by Councilman Drahos, and unanimously passed (5-0), to approve Resolution No. R2023-42 as presented.

A motion was made by Vice Mayor Napoleone, seconded by Councilman Drahos, and unanimously passed (5-0), to approve Resolution No. R2022-43 as presented.

A motion was made by Vice Mayor Napoleone, seconded by Councilwoman Siskind, and unanimously passed (5-0), to approve Resolution No. R2022-44 as presented.

Council commended Ms. Quickel and her team for developing a great budget.

C. [23-6000](#) PRESENTATION OF THE 2023 RESULTS OF THE NATIONAL COMMUNITY SURVEY

Mr. Barnes introduced the item.

Brandon Barnett thanked Tim Stillings for his feedback and for his assistance in the development of the survey and acknowledged his colleague Kristen. He referenced the National Community Survey, which was hosted on Polco. Mr. Barnett provided an overview of the survey, highlighted benchmark comparisons and presented a summary of the key findings and results. He referenced the six "E's".

Council provided comments regarding the survey report.

Mr. Barnett responded to Council's questions and comments regarding the survey.

Mr. Barnes provided follow up comments about the survey.

6. **CONSENT AGENDA**

Mr. Barnes stated there were no comment cards on the Consent Agenda.

Mr. Barnes indicated staff recommended approval of the Consent Agenda as presented.

A motion was made by Vice Mayor Napoleone, seconded by Councilwoman Siskind, and unanimously passed (5-0), to approve the Consent Agenda as presented.

Public Comment on Non-Agendaed Items:

1. Carol Brody spoke regarding code compliance.

A. [23-6038](#) MINUTES OF THE REGULAR WELLINGTON COUNCIL MEETING OF JULY 11, 2023

This item approved on Consent.

B. [23-5850](#) AUTHORIZATION TO 1) AWARD A CONTRACT FOR THE TROPOS SOLAR POWER EXPANSION PROJECT AND 2) EXECUTE A TASK ORDER FOR CONSTRUCTION PHASE SERVICES FOR THE TROPOS SOLAR POWER EXPANSION PROJECT

This item approved on Consent.

- C. [23-5962](#) AUTHORIZATION TO 1) RENEW AN EXISTING SOLE SOURCE AGREEMENT TO PROVIDE GEOGRAPHIC INFORMATION SYSTEMS (GIS) LICENSING, MAINTENANCE AND SUPPORT; 2) CONTINUE UTILIZING A CONSULTANT TO PROVIDE GIS SUPPORT, DEVELOPMENT AND INTEGRATION; AND 3) AUTHORIZATION TO ENTER INTO AN AGREEMENT FOR GIS CLOUD HOSTING SERVICES
- This item approved on Consent.
- D. [23-5725](#) AUTHORIZATION TO AWARD A CONSTRUCTION MANAGER AT RISK CONTRACT FOR THE AQUATICS FACILITY
- This item approved on Consent.
- E. [23-5851](#) AUTHORIZATION TO AWARD A CONTRACT FOR THE WELLINGTON ENVIRONMENTAL PRESERVE (SECTION 24) BOARDWALK REFURBISHMENT PROJECT
- This item approved on Consent.
- F. [23-6039](#) RATIFICATION OF EMERGENCY PURCHASE ORDERS AND AUTHORIZATION TO AWARD CONTRACTS TO MAINGUY LANDSCAPE SERVICES AND WELLINGTON PROFESSIONAL LAWN CARE FOR LANDSCAPE SERVICES
- This item approved on Consent.
- G. [23-5897](#) RESOLUTION NO. R2023-25 (QUERCUS LANE TRAFFIC CONTROL ILA)
- A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL AUTHORIZING THE MAYOR TO EXECUTE A NEW INTERLOCAL AGREEMENT WITH PALM BEACH COUNTY TO REPEAL AND REPLACE THE PRIOR TRAFFIC CONTROL AND QUERCUS SIGNAL MAINTENANCE AGREEMENTS, FOR THE PURPOSE OF UPDATING THE PARTIES' TRAFFIC CONTROL FUNCTIONS, DUTIES AND MAINTENANCE AUTHORITY OVER CERTAIN ROADS, AND TO ALLOW FOR INSTALLATION AND MAINTENANCE OF CAMERAS, GOLF CART TRAFFIC CONTROL DEVICES, AND DECORATIVE ART WRAPS ON SIGNAL CONTROL CABINETS LOCATED ON TRAFFIC SIGNAL POLES MAINTAINED BY PALM BEACH COUNTY WITHIN WELLINGTON'S MUNICIPAL BOUNDARIES; AND PROVIDING AN EFFECTIVE DATE.
- This item approved on Consent.
- H. [23-6031](#) RESOLUTION NO. R2023-45 AMENDING THE FISCAL YEAR 2022/2023 GOVERNMENTAL CAPITAL FUND BUDGET TO APPROPRIATE PROCEEDS OF THE PUBLIC IMPROVEMENT

REVENUE BONDS, SERIES 2023, TO FUND FINANCING COSTS AND THE WELLINGTON COMMUNITY PARK IMPROVEMENT PROJECT; AND PROVIDING AN EFFECTIVE DATE.

This item approved on Consent.

I. [23-6034](#)

RESOLUTION NO. R2023-34 FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, FLORIDA FOREST SERVICE URBAN AND COMMUNITY FORESTRY GRANT AGREEMENT AND RESOLUTION NO. R2023-35 BUDGET AMENDMENT TO ALLOCATE SAID GRANT

A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL RATIFYING RESOLUTION NO. R2023-34 APPROVING AND AUTHORIZING THE DEPUTY VILLAGE MANAGER TO EXECUTE URBAN AND COMMUNITY FORESTRY GRANT AGREEMENT 29922 WITH THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, FLORIDA FOREST SERVICE; AND PROVIDING AN EFFECTIVE DATE.

RESOLUTION NO. R2023-35 AMENDING THE FISCAL YEAR 2022-2023 BUDGET FOR THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, FLORIDA FOREST SERVICE URBAN AND COMMUNITY FORESTRY GRANT FUNDS AWARDED FOR THE COMPLETION OF THE TREE PLANTING; AND PROVIDING AN EFFECTIVE DATE.

This item approved on Consent.

J. [23-6036](#)

RESOLUTION NO. R2023-46 (HAZARD MITIGATION GRANT PROGRAM FUNDING)

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF WELLINGTON, FLORIDA, APPROVING AND AUTHORIZING THE VILLAGE MANAGER OR DEPUTY VILLAGE MANAGER TO EXECUTE AND SUBMIT THE APPLICATION AND ALL NECESSARY DOCUMENTS RELATED TO THE HAZARD MITIGATION GRANT PROGRAM AND APPROVING THE RECEIPT OF FUNDS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

This item approved on Consent.

K. [23-6045](#)

RESOLUTION NO. R2023-47 (DEPARTMENT OF STATE, DIVISION OF ARTS AND CULTURE GENERAL SUPPORT PROGRAM GRANT)

A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL TO ENTER INTO AN AGREEMENT WITH THE DEPARTMENT OF

STATE, DIVISION OF ARTS AND CULTURE FOR THE PURPOSE OF RECEIVING A GRANT UNDER PROVISIONS OF THE GENERAL SUPPORT PROGRAM GRANT FOR AMPHITHEATER PROGRAMMING; AND PROVIDING AN EFFECTIVE DATE.

This item approved on Consent.

L. [23-6046](#)

A. RESOLUTION NO. R2023-49 FOR THE DEPARTMENT OF STATE, DIVISION OF ARTS AND CULTURE FACILITIES GRANT

A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL TO ENTER INTO AN AGREEMENT WITH THE DEPARTMENT OF STATE, DIVISION OF ARTS AND CULTURE FOR THE PURPOSE OF RECEIVING A GRANT UNDER PROVISIONS OF THE FACILITIES GRANT FOR THE MARJORIE STONEMAN DOUGLAS NATURE, ARTS & CULTURAL CENTER; AND PROVIDING AN EFFECTIVE DATE.

B. RESOLUTION NO. R2023-50 FOR THE BUDGET AMENDMENT APPROPRIATING THE DEPARTMENT OF STATE, DIVISION OF ARTS AND CULTURE FACILITIES GRANT FUNDING IN THE AMOUNT OF \$500,000.

A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL AMENDING THE FISCAL YEAR 2022-2023 OPERATING BUDGET FOR THE DEPARTMENT OF STATE, DIVISION OF ARTS AND CULTURE FACILITIES GRANT AWARDED FOR THE MARJORIE STONEMAN DOUGLAS NATURE, ARTS & CULTURAL CENTER; AND PROVIDING AN EFFECTIVE DATE.

This item approved on Consent.

M. [23-6053](#)

RESOLUTION NO. R2023-51 (ANNUAL LISTING OF PROCLAMATIONS)

A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL AUTHORIZING THE MAYOR TO EXECUTE CERTAIN PROCLAMATIONS FOR FISCAL YEAR 2023/2024; AND PROVIDING AN EFFECTIVE DATE.

This item approved on Consent.

N. [23-6054](#)

RESOLUTION NO. R2023-52 (REGULAR COUNCIL MEETING SCHEDULE)

A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL ADOPTING A SCHEDULE FOR REGULAR COUNCIL MEETINGS FOR 2023/2024; AND PROVIDING AN EFFECTIVE DATE.

This item approved on Consent.

7. PUBLIC HEARINGS

- A. [23-6015](#) ORDINANCE NO. 2023-12 (AMENDMENTS TO CHAPTERS 1, 2, 3, 9, 20, AND 22 OF WELLINGTON'S CODE OF ORDINANCES)

AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL AMENDING THE WELLINGTON CODE OF ORDINANCES, MORE SPECIFICALLY, TEXT AMENDMENTS TO MODIFY CERTAIN PROVISIONS IN CHAPTER 1 (GENERAL PROVISIONS), CHAPTER 2 (ADMINISTRATION), CHAPTER 3 (ALCHOLIC BEVERAGES), CHAPTER 9 (ENVIRONMENT), CHAPTER 11 (MORTGAGED PROPERTY REGISTRATION), CHAPTER 20 (STREETS, SIDEWALKS AND OTHER PLACES), AND CHAPTER 22 (TRAFFIC & VEHICLES) AS CONTAINED HEREIN; TO FACILITATE IMPROVED EFFICIENCY FOR THE CITATION METHOD OF CODE COMPLIANCE; FOR CLARIFICATION OF PROVISIONS BY ADDING, MODIFYING, OR ELIMINATING CONFUSING LANGUAGE, INCLUDING DEFINITIONS; MODIFYING PROVISIONS TO BE CONTEMPORARY OR TO COMPLY WITH CHANGES IN STATE LAW ADOPTED DURING THE 2023 LEGISLATIVE SESSION; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Mr. Barnes introduced the item.

Ms. Addie read the Ordinance by title.

Mr. Basehart stated this was initiated by comments from the Palm Beach County Sheriff's Office (PBSO) and staff also clarified additional items in the Code regarding definitions and violations.

Ms. Cohen spoke regarding the provision for golf carts.

Public Hearing

A motion was made by Vice Mayor Napoleone, seconded by Councilman Drahos, and unanimously passed (5-0), to open the Public Hearing.

There being no public comments, a motion was made by Councilman Drahos, seconded by Vice Mayor Napoleone, and unanimously passed (5-0), to close the Public Hearing.

A motion was made by Councilwoman Siskind, seconded by Vice Mayor Napoleone, and unanimously passed (5-0), to approve

Ordinance No. 2023-12 (Amendments to Chapters 1, 2, 3, 9, 20, and 22 of Wellington's Code of Ordinances) as presented on first reading.

8. REGULAR AGENDA

A. [23-6003](#) PRESENTATION BY 10BY20 LLC., FOR THE CONSTRUCTION, OPERATION AND MAINTENANCE OF PADEL COURTS

Mr. Barnes introduced the item.

Mr. De La Vega presented this item.

Carlos Lerena, 10BY20 CFO/Entrepreneur, introduced Fernando Fiksman, the Chairman of the Board, who briefly showed Council a partner video of Ramon Ayala (Daddy Yankee). He then introduced Daveed Navaro (sp) to discuss the project.

Mr. Guillermo spoke regarding the PADEL Ecosystem, partnerships and clubs. In addition, he responded to the Village Council's questions.

Mr. De La Vega stated staff is looking for Council authorization, if Council is interested in this, to advertise for 21 days to meet statutory requirements to ascertain if there is anyone else who is interested in submitting a proposal since this was an unsolicited proposal.

The Village Council gave comments.

Mr. Guillermo spoke regarding padel, the design/layout and tennis courts.

Alba Galan, Padel School Director in Spain and retired professional Padel player, gave comments.

The Village Council gave comments.

There was Council direction to move forward with the advertisement.

B. [23-6044](#) DIRECTION REGARDING PROPOSALS RECEIVED FOR THE DEVELOPMENT OF WELLINGTON GREEN PARK

Mr. Barnes introduced the item.

Mayor Gerwig recused herself, passed the gavel to Vice Mayor Napoleone and left the dais.

Mr. De La Vega briefly reviewed the six proposals that were received for

the development of Wellington Green Park.

Councilman Drahos asked what is the site currently being used for and can that use be transferred to another location.

Vice Mayor Napoleone asked that Mr. Barnes provide a history of the site.

Councilman McGovern asked what had the site been used for previously.

Mr. Barnes explained the history of the site.

Councilman Drahos inquired about whether or not developing the site would prevent free/open play use of the site.

Vice Mayor Napoleone asked what direction is staff looking for from Council tonight regarding the site.

Mr. Barnes explained the potential process based on Council direction.

There was further discussion with staff and Council regarding the site and proposals.

Public Comment:

1. Steve Traynor spoke regarding "Project Lighthouse" for the Wellington Green Park site. He read a statement into record.
2. Dillon ? spoke regarding Wellington Green Park. He stated it is priceless.
3. Roberto Rivera, Dan Enterprises, LLC., spoke regarding their proposal for the Wellington Green Park site.
4. Howell Long spoke regarding Wellington Green Park and how it is currently being used.
5. Robert Ryers spoke regarding the "Project Lighthouse" proposal for the Wellington Green Park site. He read a statement into record.

Councilman Drahos read the cards into the record of those who did not wish to speak.

Vice Mayor Napoleone asked what could be done at Greenbriar park to accommodate what is happening currently at the Wellington Green site.

Mr. Barnes discussed Greenbriar and Olympia Parks and what could be done at those parks regarding open play options.

Councilman McGovern asked when could Council expect to receive a report regarding the parks. He said he is concerned by what he has heard from the residents tonight regarding open play and fields.

Mr. Barnes discussed maintenance and planning for accommodations for open play.

The Village Council spoke regarding open play and the proposals.

There was Council consensus (with Mayor Gerwig recused) to speak with the six proposers who provided Letters of Interest, with clarification and direction for them to come back within a specified timeframe (after staff puts this back out to them) with a final and best offer with the parameters that sets forth the code permitted 22 units per acre (anything above that should be tied to community benefits), including affordable/workforce housing, and a straight purchase not lease.

Mr. Barnes stated staff looks at the use of the park and showed Council a graphic from 2023 Street Light data of the daily use of Wellington Green Park.

9. PUBLIC FORUM

There were no comment cards submitted for public forum.

10. ATTORNEY'S REPORT

MS. COHEN: Ms. Cohen presented the following report:

Ms. Cohen stated she had nothing to report.

11. MANAGER'S REPORT

MR. BARNES: Mr. Barnes presented the following report:

The next Council Meeting will be held on Tuesday, September 5, 2023 at 7:00 p.m. The Agenda Review Meeting will be held on Thursday, August 31, 2023.

Mr. Barnes informed Council about the Florida Department of Environmental Protection (FDEP) Florida Recreational Development Assistance program (FRDAP) grant the Village received.

Councilman McGovern thanked staff for finding the grants.

12. COUNCIL REPORTS

VICE MAYOR NAPOLEONE: Vice Mayor Napoleone presented the following report:

Vice Mayor Napoleone asked about the September and November Council meeting dates.

Mr. Barnes stated he would have the dates placed on Council calendars.

Vice Mayor Napoleone reminded everyone that school starts on Thursday and to be safe on the road.

COUNCILMAN DRAHOS: Councilman Drahos presented the following report:

Councilman Drahos waived comment.

COUNCILMAN MCGOVERN: Councilman McGovern presented the following report:

Councilman McGovern stated August 16, 2023 is the final PZAB meeting for the Wellington North and South applications.

Councilman McGovern stated school starts on Thursday and asked everyone to be cautious and safe on the roadways.

Councilman McGovern congratulated the S.W.A.G. program graduates and thanked.

Councilman McGovern stated the 9/11 Memorial Remembrance Ceremony would be held at 6:00 p.m. on September 11, 2023.

Councilman McGovern stated the Village's Hispanic Heritage Month Celebration will be held on Saturday, September 16, 2023 at the amphitheater from 5:00 p.m. to 10:00 p.m.

COUNCILWOMAN SISKIND: Councilwoman Siskind presented the following report:

Councilwoman Siskind wished everyone happy first day of school.

MAYOR GERWIG: Mayor Gerwig presented the following report:

Mayor Gerwig stated she will attend the Florida League of Cities' (FLC) conference.

Mayor Gerwig inquired what is done to recognize the employers who participate in the SWAG program and how do we find those partners. She asked that a letter be written to be signed on behalf of the Village Council.

There was further discussion regarding S.W.A.G.

Mr. Barnes stated staff will do a concerted outreach with the business community for next year.

Mayor Gerwig stated Mr. Juckett will meet with her at the amphitheater in the morning and explained that Stacy Somers has been working on a TV show and tomorrow she will highlight Scott's Place and the amphitheater.

13. ADJOURNMENT

There being no further business to come before the Village Council, the meeting was adjourned at approximately 10:40 P.M.

1. Phipps Plaza Park Donation
H. Paul Brazil, P.E., Director of Public Works

Director Brazil provided background information on the item. He said as a condition of their approval of the Carriage House, Town Council was to accept a donation for the improvement of the park in the center of Phipps Plaza. The Carriage House representatives have submitted a potential plan, and the Town Council, as the park owner, is being asked to accept the plan. If accepted, the Town Council will also be accepting a donation of \$300,000. Subsequently, the plan will be presented to the Landmarks Preservation Commission and then back to the Town Council for final approval.

Maura Ziska was present on behalf of Carriage House. Paula Bickford, 135 Gulfstream Rd, addressed the Town Council regarding the restoration of Plaza Circle at Phipps Plaza. She made several suggestions, including a flowery layered colorful entry and a hedge to protect the parking area. Dustin Mizell, Landscape Architect, presented the landscape site plan for the restoration project.

The council members made several suggestions, including using nectar plants, adding some benches to the garden, using Bahamian Coffee rather than Wild Coffee plants, and using a native plant such as Jasmine rather than Bougainvillea. Concern was raised over whether the property owners adjacent to the property had been contacted, and Ms. Bickford responded that they were pleased with the project. The maintenance requirements of the upgraded landscaping were a concern, and Mr. Mizell responded that it is not an elaborate design and is not ornamental, so the upkeep should be very reasonable. The materials used were discussed.

A motion was made by Council Member Cooney and was seconded by Council Member Araskog to accept the donation of \$300K and refer the Site Plan Review to the Landmarks Preservation Commission. On roll call, the Motion passed unanimously.

This issue was discussed for 41 minutes. Please see [this link](#) for direct access to a recording of the full discussion.

B. New Business

1. Commercial Motion Picture Application
Kirk W. Blouin, Town Manager

Bill Metzger, 277 Esplanade Way, recommended the Town Council's endorsement of the production of a television series, which he felt would positively depict Palm Beach. Mr. Metzger serves on the Volunteer Board of Directors for the Palm Beach County Film and Television Commission

and has the support of Michelle Hillary, Film Commissioner.

Leah Sokolovsky, a Career Film and Television Professional in Palm Beach County, would be the supervising manager of this project. Ms. Sokolovsky gave an overview of the series and stated that the Town Council is being asked for permission to shoot a portion of the series in the Town of Palm Beach with as minimal an impact on the town as possible.

The council raised multiple concerns, including the privacy of the town's residents, traffic impacts, safety, conflicts with current construction projects, and general lack of benefit to the town.

The consensus of the Town Council was to deny this application.

This issue was discussed for 22 minutes. Please see [this link](#) for direct access to a recording of the full discussion.

Robert's Rules of Order

A Brief Overview

How to Make and Vote on Motions

- 1** • Member makes a **clearly worded motion to take action or a position.**
 - "I move..."
 - Motions recorded in minutes
- 2** • **Motion must be seconded.**
 - "Second!"
 - A second allows discussion to occur; it does not signify approval.
 - A motion without a second does not move forward.
- 3** • **Facilitator restates the motion.**
 - "It is moved and seconded that..."
 - Provides clarity
- 4** • **Discussion/debate occurs.**
 - Maker of motion starts discussion.
 - Amendments may be offered - return to step 1 to amend motion: "I move to amend the motion by..."
- 5** • Facilitator closes discussion and **states the question/asks for a vote.**
 - "The question is on the adoption of the motion that..."
 - Motion repeated word-for-word
- 6** • Facilitator provides **voting directions:**
 - e.g. hand vote, secret ballot, straw poll, etc.
- 7** • Facilitator announces the **result of the vote:**
 - "The ayes have it, and the motion is adopted" or
 - "The noes have it, the motion is lost."
 - Recorded in minutes

Why follow Robert's Rules of Order?

- Allows for democratic speech and action
- Preserves order
- Rights of the organization supersede the rights of individual members
- Facilitates group decisions

Meeting Agendas

1. Approval of Previous Meeting Minutes
2. Reports (from officers, committees, task forces)
3. Unfinished Business
4. New Business - items brought forward by motion procedure

Meeting Minutes (when using Robert's Rules of Order)

- Minutes are a legal record of meetings.
- Minutes are a record of what is done at a meeting, not what is said.

Minutes should include:

1. Name, date and location of meeting
2. List of attendees (note presence of a quorum)
3. Time meeting was called to order
4. Conflict of Interest & Antitrust Avoidance Affirmation
5. Approval of previous meeting minutes
6. Motion text and name of maker
7. Status/results of motions
8. Time meeting was adjourned

Minutes do not include:

- Discussion
- Personal opinion
- Name of seconder of a motion is not necessary
- Motions withdrawn
- Entire reports (rather attach to minutes)

Motion

- A motion is a formal proposal by a member that the group take a certain action or position.
- A main motion is required to begin the decision making process.
- A motion occurs prior to discussion

To Do This	Motion	You Say This	Debate Allowed?	Vote Required?
Introduce Business	Main	"I move that..."	Yes	Majority
Second a Motion	Second	"Second!"	No	No
Change the Wording or add Clarity of a Motion	Amend	"I move to amend the motion by..." (adding words; striking out words; substitute words)	Yes	Majority
Send to Committee	Commit /Refer	"I move the motion be referred to..."	Yes	Majority
Postpone Action until a Specific Time	Postpone	"I move the motion be postponed until..." (provide specific time on agenda /next meeting date)	Yes	Majority
Postpone Action until an Unspecified Time	Lay on the Table	"I move to lay the motion on the table."	No	Majority
Limit Debate	Limit Debate	"I move that the debate on this motion be limited to (one) speech of (two) minutes for each member."	No	Two-thirds
End Debate or Request a Vote	Previous Question	"I move the previous question."	No	Two-thirds
Take Intermission	Recess	"I move to recess for (time)."	No	Majority
Close Meeting	Adjourn	Adjourn "I move to adjourn."	No	Majority



TOWN OF PALM BEACH

Town Council Meeting on: January 9, 2024

Section of Agenda

Regular Agenda - Old Business

Agenda Title

Phipps Ocean Park Project

TIME CERTAIN: 11:00 A.M.

a. RESOLUTION NO. 003-2024 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing Modifications to the Approved Site Plan for Phipps Ocean Park, Located at 2185 South Ocean Boulevard, Palm Beach, Florida.

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

b. RESOLUTION NO. 004-2024 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving A 75-Year Naming Rights Term for the Lead Donor to Phipps Ocean Park as Part of The Preservation Foundation of Palm Beach's Extraordinary Spaces Capital Campaign.

Carolyn Stone, Deputy Town Manager and Amanda Skier, Preservation Foundation of Palm Beach

Presenter

ATTACHMENTS:

- ▣ **a. Memorandum Dated December 21, 2023, from H. Paul Brazil, P.E., Director of Public Works**
- ▣ **a. Resolution No. 003-2024**
- ▣ **a. Phipps Ocean Park Site Plan**
- ▣ **b. Memorandum Dated December 27, 2023, from Carolyn. S. Stone, Deputy Town Manager - Business Enterprise and Culture**
- ▣ **b. Resolution No. 004-2024**
- ▣ **b. Letter Dated December 22, 2023, from Amanda H. Skier, President & CEO of The Preservation Foundation of Palm Beach**

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 9, 2024

TO: Mayor and Town Council

VIA: Kirk W. Blouin, Town Manager

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

RE: Approve Modifications to the Site Plan for Phipps Ocean Park
Resolution No. 003-2024

DATE: December 21, 2023

STAFF RECOMMENDATION

Town staff recommends Town Council approve Resolution No. 003-2024 for the site modifications to the previously approved Site Plan for the Phipps Ocean Park.

GENERAL INFORMATION

Phipps Ocean Park Site Plan was approved at the February 14, 2023 Town Council Meeting. Burkhardt Construction, Inc. (BCI) was selected as the Construction Manager at Risk for the construction of the Phipps Ocean Park. BCI prepared a cost estimate based on the sixty percent (60%) plans. The cost estimate was significantly higher than anticipated. Therefore, over the last six (6) months the Preservation Foundation has worked with their consultants through Value Engineering to modify the plans in a way to preserve the intent of the park and reduce the cost. The modifications have been reviewed by Town staff. The Preservation Foundation and Kimley-Horn and Associates will present the revised site plan outlining the plan changes from February to now. Below is a list of changes including explanations for change which are shown per page on the attached exhibits.

Page 1: Approved Site Plan from February 2023

Page 2: Program elements removed from the approved site plan.

- North entry to playground removed due to site grading restrictions.
- Water feature basin removed (one of two) due to Value Engineering.
- Interior walkways were removed to accommodate stormwater treatment. Rain/swale slopes for stormwater required additional area; the intent has always been to provide required site drainage for educational purposes by eliminating the need for underground conveyance systems and treating stormwater via rain gardens and swale areas.
- Oak Terrace removed due to Value Engineering.
- Sidewalk connection across A1A removed which is anticipated to be completed under separate FDOT project.

Page 3: Current 90% Plan Set

Page 4: Modified Program elements

- Playground extents adjusted but the overall total area is minimally impacted. The area was adjusted to protect existing trees which provide shade. The proposed playground equipment locations were adjusted slightly to meet required offsets and safety zones.
- An outdoor educational garden has been added at a donor's request.
- "Out-house" A/C structure was relocated which caused the site grading to be adjusted.
- Bollards and seating boulders added to entry plaza for safety.
- The wildflower garden pathway and overlook has been added. The elevated platform was value engineered out. The overlook platform, as well as at-grade walkway, was proposed in its place.
- Pathways have been modified to accommodate ADA accessibility including: dune crest approach, outdoor classroom approach, access to beach pavilions, outdoor classroom, and LRS access, south restroom building access.
- Pathways were modified to accommodate stormwater treatment areas: South parking walkway from tennis center to south restroom building and south parking to R/W sidewalk.

FUNDING/FISCAL IMPACT

These modifications will reduce the overall cost of the Phipps Ocean Park improvements. The Park renovation is being funded through donations.

Attachment

cc: Jason Debrincat, P.E., Assistant Director
Patricia Strayer, P.E., Town Engineer
Wayne Bergman, MCP, LEED-AP Director of Planning, Zoning & Building

RESOLUTION NO. 003-2024

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING MODIFICATIONS TO THE APPROVED SITE PLAN FOR PHIPPS OCEAN PARK, LOCATED AT 2185 SOUTH OCEAN BOULEVARD, PALM BEACH, FLORIDA

WHEREAS, a Site Plan application has been submitted to the Town for modifications to the Phipps Ocean Park property legally described as: “PALM BEACH ESTATES S 100 FT OF LT 120 & LTS 121 TO 125 INC & N 100 FT OF LT 126, aka 2185 South Ocean Boulevard, Palm Beach, Florida”; and

WHEREAS, a series of public hearings concerning the project and Site Plan were held by both the Landmarks Preservation Commission and the Town Council during 2022 and 2023; and

WHEREAS, the Town Council approved the Site Plan on February 14, 2023; and

WHEREAS, modifications to the approved Site Plan were presented by the Preservation Foundation of Palm Beach and Kimley-Horn and Associates, on January 9, 2024, and have been reviewed and recommended by staff to be adopted.

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

Section 1. The modified Site Plan, dated February 14, 2023, are hereby approved and adopted by the Town Council of the Town of Palm Beach, Palm Beach County, Florida.

PASSED AND ADOPTED in a regular, adjournment session of the Town Council of the Town of Palm Beach assembled this 9th day of January, 2024.

Danielle H. Moore, Mayor

Margaret A. Zeidman, Town Council President

Bobbie Lindsay, Town Council President Pro Tem

ATTEST:

Julie Araskog, Town Council Member

Edward A. Cooney, Town Council Member

Kelly Churney, Acting Town Clerk

Lewis S.W. Crampton, Town Council Member

[illegible]

-

[illegible]

[illegible]

- [illegible]

TOWN OF PALM BEACH

Information for Town Council Meeting on January 9, 2024

To: Mayor and Town Council

Via: Kirk W. Blouin, Town Manager

From: Carolyn S. Stone, Deputy Town Manager – Business Enterprise and Culture

Re: Phipps Ocean Park Donation Acceptance
Resolution No. 004-2024

Date: December 27, 2023

STAFF RECOMMENDATION

Staff recommends Town Council approve resolution no. 004-2024, approving the naming rights term of a donation from the lead contributor to the Extraordinary Spaces @ Phipps Ocean Park Capital Campaign.

GENERAL INFORMATION

The Preservation Foundation of Palm Beach's Extraordinary Spaces @ Phipps Ocean Park Capital Campaign has a fundraising goal of \$30 million. To meet its fundraising goals and secure its bridge loan, the Foundation has requested that the lead donor's agreement be executed in advance of the Capital Gifts and Management Agreement. The Town anticipates the project's Guaranteed Maximum Price to be completed in March or April 2024. This timeline delays the Preservation Foundation's ability to secure its lead gift since signed pledge agreements are collateral in securing the loan. The donor is requesting a naming period of 75 years. Town Council agreed on the 75-year term in the June 2022 meeting. Staff prepared Resolution No. 004-2024 to formalize this naming rights term.

Please review the attached letter from Amanda Skier, President & CEO of the Preservation Foundation of Palm Beach, and the language from the Grantor's donor agreement requesting a 75-year naming term.

FUNDING/FISCAL IMPACT

The Preservation Foundation of Palm Beach has committed to raising the necessary funds to pay for the Phipps Ocean Park improvements.

cc: Robert Miracle, Deputy Town Manager for Finance and Administration
H. Paul Brazil, Director of Public Works
Patricia Strayer, Town Engineer
Mike Roach, Project Engineer
Mark Bresnahan, Recreation Director
Amanda Skier, President & CEO of the Preservation Foundation of Palm Beach

RESOLUTION NO. 004-2024

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING A 75-YEAR NAMING RIGHTS TERM FOR THE LEAD DONOR TO PHIPPS OCEAN PARK AS PART OF THE PRESERVATION FOUNDATION OF PALM BEACH'S EXTRAORDINARY SPACES CAPITAL CAMPAIGN

WHEREAS, the Preservation Foundation of Palm Beach is raising \$30 million for its Extraordinary Spaces @ Phipps Ocean Park Capital Campaign;

WHEREAS, a donor has requested a naming right of a 75-year term for the naming of the Coastal Conservancy at Phillips Ocean Park;

WHEREAS, the Preservation Foundation needs the Town Council's approval of this naming right term to execute the donor agreement;

WHEREAS, this donor agreement will serve as collateral for the Preservation Foundation's bridge loan;

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

Section 1: The Town of Palm Beach approves the 75-year naming right to this lead donor of the Extraordinary Spaces @ Phipps Ocean Park Capital Campaign.

Section 2: The Town of Palm Beach will accept donations in accordance with the Town's Donor Naming Rights Policy upon adoption.

Section 3: This resolution shall take effect upon execution.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 9TH day of January 2024.

Danielle H. Moore, Mayor

Margaret A. Zeidman, Town Council President

Bobbie D. Lindsay, Council President Pro Tem

ATTEST:

Julie Araskog, Town Council Member

Edward A. Cooney, Town Council Member

Kelly Churney, Acting Town Clerk

Lewis S.W. Crampton, Town Council Member



Executive Committee

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Mr. Daniel E. Ponton, *Vice-Chairman*
Mr. Thomas C. Quick, *Secretary*
Mr. Erik T. Waldin, *Treasurer*
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Mr. Charles M. Royce
Mrs. Lynne M. Wheat

President & CEO

Amanda H. Skier

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Mrs. F. Eugene Dixon, Jr.
Mrs. Robert M. Grace
Mrs. Frances G. Scaife

December 22, 2023

Town Council

Town of Palm Beach
Post Office Box 2029
Palm Beach, FL 33480

Dear Mayor Moore, Council President Zeidman, and Town Council Members:

The plan set for the rehabilitation of Phipps Ocean Park recently reached 90% completion and slight modifications were made to the approved Site Plan to bring down the cost of the project. Burkhardt Construction, Inc., the Construction Manager at Risk for the project, has sent the updated plans to the subcontractors bidding on the project and expects to present, in conjunction with the Public Works Department, a Guaranteed Maximum Price (GMP) to the Town Council at its March 2024 meeting. The GMP is an important component of the Capital Gift Agreement between the Town of Palm Beach and the Preservation Foundation of Palm Beach. The agreement will outline the terms of the Preservation Foundation's underwriting of the project and its long-term involvement at the park once the project is completed. After the GMP has been accepted, the Capital Gift Agreement can be presented to the Town Council at its April 2024 meeting.

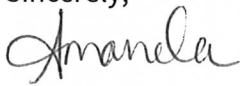
Anticipating a ground breaking of June 2024, the Preservation Foundation is currently finalizing pledge paperwork and preparing to apply for a bridge loan to assist with the funding of the project. Signed pledge agreements will be used as collateral during the application process. There is one outstanding pledge agreement that cannot be signed until the Town Council approves the term for the naming opportunity. Although the Town Council reached consensus in allowing terms of up to 75 years at its June 2022 meeting, no formal vote was taken.

The outstanding pledge agreement pertains to the naming of the Coastal Conservancy and a term of 75 years is being requested. Although a draft of the Capital Gift Agreement includes this provision, the Agreement will not be discussed by the Town Council until April 2024, as mentioned above.

The Preservation Foundation respectfully requests that the naming term for this one feature be broken out and formally approved now. This will allow the outstanding pledge agreement to be finalized and the financing for the project to be secured. Language from the pledge agreement that pertains to the Town of Palm Beach's responsibility can be found in the attached addendum.

The Preservation Foundation respectfully requests approval of the 75-year term for the naming of the Coastal Conservancy at Phipps Ocean Park. Additionally, the Foundation also requests approval of the site modifications to the previously approved Site Plan for Phipps Ocean Park.

Sincerely,

A handwritten signature in cursive script, appearing to read "Amanda".

Amanda H. Skier
President & CEO

ADDENDUM

The Coastal Conservancy:

Designated Name: In recognition of the Grant, Grantee agrees that upon the opening of the Coastal Conservancy to the general public (the “Naming Date”), the Coastal Conservancy will be solely known during the naming rights period (defined below) as the “The [REDACTED] Coastal Conservancy at Phipps Ocean Park” (or a variation of the foregoing, including but not limited to the addition of the Advisor’s spouse’s name) selected prior to the Naming Date by the Advisor and reasonably acceptable to the Grantee and the Town (the “Designated Name”).

Signage:

1. The Designated Name shall be recognized with prominent signage to be mutually determined by Grantee and the Advisor. The signage shall be affixed for a period of seventy-five (75) years, beginning upon the Naming Date (such period shall be known as the “Naming Rights Period”). After the end of the Naming Rights Period, the Grantee (in conjunction with the Town and other Third Parties as defined below) may, but need not, change or alter the naming rights and signage associated with the Coastal Conservancy, in the Grantee’s sole discretion and without notice to or approval of the Advisor or NPT.
2. Grantee and the Advisor acknowledge and agree that the overall goals of the Coastal Conservancy signage are to: (a) prominently recognize the Designated Name, (b) offer clear, concise, and consistent communication of the Designated Name, and (c) allow easy identification of the Designated Name.
3. Placement, lettering, style, location and prominence of all signage bearing the Designated Name shall be subject to the Advisor’s written approval and the approval of the Grantee prior to installation, which consent shall not be unreasonably withheld and after which no changes shall be made without the Advisor’s written consent. However, the Advisor acknowledges that all such placement, lettering, style, location, and prominence of the signage remains subject to the Required Approvals (defined below) by Third Parties (defined below). If the Advisor does not approve such placement, lettering, style, location and prominence of the signage, the Grantee agrees to make such revisions as are reasonably requested by the Advisor. The style of bearing the Designated Name shall be

consistent with other recognition signage at Phipps Ocean Park, and the scale of such signage shall be prominent, readily visible and no smaller than the largest signage format used by Phipps Ocean Park acknowledging similar areas.

4. The Grantee agrees that (a) if acknowledgment of other donors is permitted within Phipps Ocean Park, such other naming opportunity or acknowledgement shall not diminish or interfere with the signage associated with the Designated Name, (b) signage bearing the Designated Name shall be kept in good condition and repair, which includes but is not limited to, removing graffiti from such signage and/or repairing any other defacement or vandalism of such signage and (c) the Grantee shall build, maintain, repair and renovate the Coastal Conservancy at its sole expense.
5. All external signage will be subject to review and approval by the Town of Palm Beach, the Phipps family and other required parties (collectively, the "Third Parties"). The Grantee will advocate in any statements, application, agreement or other appearance before any Third Parties to obtain approval of the placement, duration, lettering, style, location and prominence of the Designated Name as outlined in this paragraph 1 (collectively, the "Required Approvals") and will use its best efforts to obtain the Required Approvals.

b) *Print and Media.* On and after the Naming Date and throughout the duration of the Naming Rights Period, the Coastal Conservancy shall be formally identified by the Designated Name, which includes but is not limited to recognition on the Grantee's website, in official Grantee press releases, publications, formal correspondence, maps, directions, and other similar documents, regardless of whether such documents are electronic or in print. It is understood and agreed by the Grantee and the Advisor that in day-to-day usage and digital media platforms maintained by the Grantee, including but not limited to Facebook, Instagram, and Twitter, the name of the Coastal Conservancy may be abbreviated or otherwise informally varied without violating these terms, provided, however, that the Grantee will ensure that any official reference to the Coastal Conservancy (whether informal or formal) shall always include the name [REDACTED]. Additionally, during the Naming Rights Period, unless otherwise agreed to in writing in advance by the Advisor, all other signage, printed materials, websites, press releases, brochures, letterhead, and similar documentation will reference the Designated Name in full in the first use, and subsequent references within the same documentation may be abbreviated provided that any such subsequent references include the name [REDACTED].

Failure to Comply with Naming Rights.

The Grantee understands, agrees and acknowledges that (a) the rights set forth in paragraph 1 (collectively, the "Naming Rights") are at the essence of this Agreement and are a material and essential inducement to NPT's entry into this Agreement, absent which the Advisor would not agree to recommend the Grant, (b) the Advisor shall suffer irreparable harm if the Designated Name is removed from the Coastal Conservancy and/or materially altered or the Grantee fails to comply with the Naming Rights under paragraph 1 during the Naming Rights Period, and (c) money damages and disgorgement of funds shall not be an adequate remedy for such breach. Accordingly, if a dispute or controversy arises from this Agreement as a result of (i) Grantee's removal or alteration of the Designated Name during the Naming Rights Period or (ii) Grantee's failure to comply with the Naming Rights under paragraph 1 during the Naming Rights Period, (collectively, the "Naming Rights Breach"), the Advisor, NPT or their respective successors may, after thirty (30) days following a Breach Notice sent to the Grantee, seek specific performance, injunctive or other equitable relief in order to enforce, or prevent any violations of, the Naming Rights. Upon the request of the Advisor, NPT or their respective successors, the Grantee hereby consents to the entry of a judgment (a) granting injunctive or other equitable relief preventing the alteration and/or removal of the Designated Name, and (b) granting specific performance with respect to the provisions of paragraph 1. During the Naming Rights Period, the Grantee shall be prohibited from breaching this Agreement by removing the Designated Name if the Grantee receives a larger grant or gift that requires the change of the Designated Name. If, notwithstanding the foregoing, injunctive or other equitable relief and specific performance is not granted to the Advisor, NPT or their respective successors, as the case may be, then the Grantee shall distribute the aggregate amount of the Grant received by the Grantee from NPT as of the date of the relevant Naming Rights Breach to any one or more sponsoring organizations of the Advisor's Donor Advised Funds designated by the Advisor, NPT or their respective successors in writing.

TOWN OF PALM BEACH

Town Council Meeting on: January 9, 2024

Section of Agenda

Regular Agenda - Old Business

Agenda Title

Mid-Town Beach Renourishment Project Update

Presenter

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

ATTACHMENTS:

- ▣ **Memorandum dated December 21, 2023, from H. Paul Brazil, P.E.,
Director of Public Works**

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 9, 2024

TO: Mayor and Town Council

VIA: Kirk W. Blouin, Town Manager

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

RE: Mid-Town Beach Renourishment Project Update

DATE: December 21, 2023

STAFF RECOMMENDATION

Town staff is providing a project update for the Federally authorized Mid-Town Beach Renourishment Project.

GENERAL INFORMATION

The United States Corps of Engineers (“USACE”) approved and received funding for a Flood Control and Coastal Emergencies Act (“FCCE”) project for the Mid-Town Beach Federal Nourishment Project in the Town of Palm Beach to replace sand lost from Hurricane Nicole. USACE Headquarters has determined that the project cannot be designed or constructed due to the Town of Palm Beach’s inability to acquire 100% of the required perpetual easements. Staff have been working with the Jacksonville District office of USACE in an effort to find a way for a one-time waiver to construct the project within the limits of the area that the Town does have the necessary easements. This area is essentially from Root Trail south to Hammond Road. After review by the real estate and engineering staff, the Jacksonville District determined that a project review and new cost benefit analysis would be required. This can be done, but not in time to implement the FCCE project in November of 2024. Due to the existing condition of the Mid-Town seawall and the plan to begin construction of the Mid-Town seawall in November 2026, staff is continuing to work with USACE to find another alternative to ensure the FCCE project can be constructed in November of 2024.

While USACE is enforcing the requirement for 100% executed perpetual easements for all Coastal Storm Risk Management (CSRM) projects nationally, the state of Florida is unique among other states in the fact that CSRM projects, such as the Mid-Town Beach Nourishment, require an established Erosion Control Line (“ECL”), which is supported by state law. All lands waterward of the ECL are sovereign lands of the state. Therefore, the state can provide the required perpetual easements for any lands waterward of the ECL and by definition these areas remain publicly accessible in perpetuity. This boundary is clearly established and defined in the Mid-Town Beach Renourishment project in the Town of Palm Beach, Florida and provides a continuous project area for USACE to construct the project.

Due to property owners that are unwilling to provide a perpetual public access easement, the Town could seek a perpetual construction easement. Section 103(d) of the 1986 Water Resources Development Act, allows local sponsors of a federal beach erosion project to pay for that portion of the cost of the federal project that benefits the private upland property owners. If USACE agrees the Town could acquire perpetual construction easements from the properties that are refusing to provide the perpetual easements that include

public use language. This would allow USACE to pay for the portion of the project waterward of the ECL and the Town would pay for the portion of the project landward of the ECL. Staff is working to schedule a meeting with USACE Headquarters to specifically request utilizing this existing law to allow the USACE to construct the federally approved FCCE without using federal dollars on those portions of private properties that have not executed the required easement for reasons of perpetual public access (portions of the project landward of the ECL).

FUNDING/FISCAL IMPACT

Staff has not determined what the additional cost to the Town would be for the areas with only perpetual construction easements or how this would be funded.

cc: Jason Debrincat, P.E., Assistant Director
Patricia Strayer, P.E., Town Engineer
Joanne O'Connor, Town Attorney, Jones Foster

TOWN OF PALM BEACH

Town Council Meeting on: January 9, 2024

Section of Agenda

Regular Agenda - Old Business

Agenda Title

Town-Wide Undergrounding Project - Review of Project and Dashboard, Summary of Project Status

Presenter

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

ATTACHMENTS:

- ▣ **Memorandum dated December 20, 2023, from H. Paul Brazil, P.E., Director of Public Works**

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 9, 2024

TO: Mayor & Town Council

VIA: Kirk W. Blouin, Town Manager

VIA: Paul Brazil, Public Works Director

FROM: Patricia Strayer, Town Engineer

RE: Utility Undergrounding Project Status Report

DATE: December 20, 2023

I. COMMUNICATIONS:

A. Community Meetings:

None to report

B. Significant Residential Communications

Staff meetings are focused on Phase 8 easement acquisition.

II. PROGRESS SUMMARY:

Overall, Town-wide construction progress, thirteen (13) of fifteen (15) construction zones are either complete or in progress/funded for construction, inclusive of Phases 1N, 1S, 2N, 2S, 3N, 3S, 4N, 4S, 5N, 5S, P6N, P6S and P7N.

A. Construction Progress:

Phase 1 North:

From the Inlet south to Onondaga Ave.

- Completed March 30, 2019

Phase 1 South:

From southern Town limits north to Sloan's Curve

- Completed April 3, 2020

Phase 2 North Construction:

From Esplanade Way to Ocean Terrace

- Completed October 29, 2020

Phase 2 South Construction:

From Sloan's' Curve to the intersection of South Ocean Blvd and South County Road

- Completed September 2023.

Phase 3 North Construction:

From Osceola Way to the north-side of La Puerta Way

- Completed September 17, 2021.

Phase 3 South:

From South Ocean Boulevard and South County Road to the alleyway south of Worth Avenue

- Phase 3 South construction is 89% complete.
- Switching has begun and is approximately 35% complete.
- At this time, we are unsure when poles will be removed.

Phase 4 North:

From south-side of La Puerta Way to north-side of List Road

- Construction for Phase 4 North is 95% complete.
- Paving is complete.
- Poles will be removed in February or March.

Phase 4 South:

From Peruvian Avenue to Royal Palm Way

- Construction is 63% complete.

Phase 5 North:

From Country Club Road to Southland Road

- Construction phase is 81% complete.
- Comcast has started installation.
- Energizing the underground network has begun.

Phase 5 South:

From South Lake Drive/Hibiscus Avenue & Peruvian Avenue/Royal Palm Way, properties between the intracoastal waterway and the Atlantic Ocean and from Royal Palm Way to Seaspray Avenue.

- Construction phase is 80% complete.
- Contractor has requested FPL begin to energize the underground network.
- Poles will come down by June 2024.

Phase 6 North:

From Chateaux Drive and Kawama Lane to the south-side of Plantation Road

- Construction phase is 62% complete.
- Poles should be removed mid 2024 if we stay on schedule and do not have any significant storms that may divert resources away from FPL switching and conversions.

Phase 6 South:

Seaspray Avenue to the south of Royal Poinciana Way

- Construction is 14% complete.
- Poles should come down in 2025.

Phase 7 North:

Palm Beach Country Club north to the south side of List Road

- Design is 100% complete and on schedule.
- 79 of 79 (100%) easements approved.
- Construction has been awarded but has not started. Contractor is waiting on supplies.

Phase 7 South:

Atlantic Avenue north to Via Los Incas and Sanford Avenue

- Design is 92% complete and on schedule. Bid packages are being prepared and expected to be issued in the next 30 days.
- 55 of 55 (100%) easements approved.

Phase 8:

Royal Poinciana Way north to Everglade Avenue

- Design is 67% complete and on schedule.
- 72 of 116 (62%) easements approved.

III. FINANCIAL SUMMARY:

A. FEMA Grant Update:

FEMA has granted the request for an extension of the completion deadline.

B. Project Budget Summary:

There are no significant changes since the last report. Updates include processing of vendor pay applications for design and work performed in active phases. The table below shows the latest construction cost summary which has been updated to include Phase 7 North.

Phase Area	Construction Cost Proposal	Master Plan OPC	Difference	% Difference
3S	\$8,029,384.83	\$7,710,000.00	\$319,384.83	4.1%
4N	\$4,843,009.99	\$5,360,000.00	(\$516,990.01)	-9.6%
4S	\$8,803,506.00	\$6,400,000.00	\$2,403,506.00	37.6%
5N	\$7,347,435.31	\$6,960,000.00	\$387,435.31	5.6%
5S	\$8,102,327.89	\$8,940,000.00	(\$837,672.11)	-9.4%
6N	\$7,867,296.00	\$5,620,000.00	\$2,247,296.00	40.0%
6S	\$8,149,565.00	\$10,040,000.00	(\$1,890,435.00)	-18.8%
7N	\$10,472,977.00	\$5,980,000.00	\$4,492,977.00	75.1%
Totals	\$63,615,502.02	\$57,010,000.00	\$6,605,502.02	11.6%

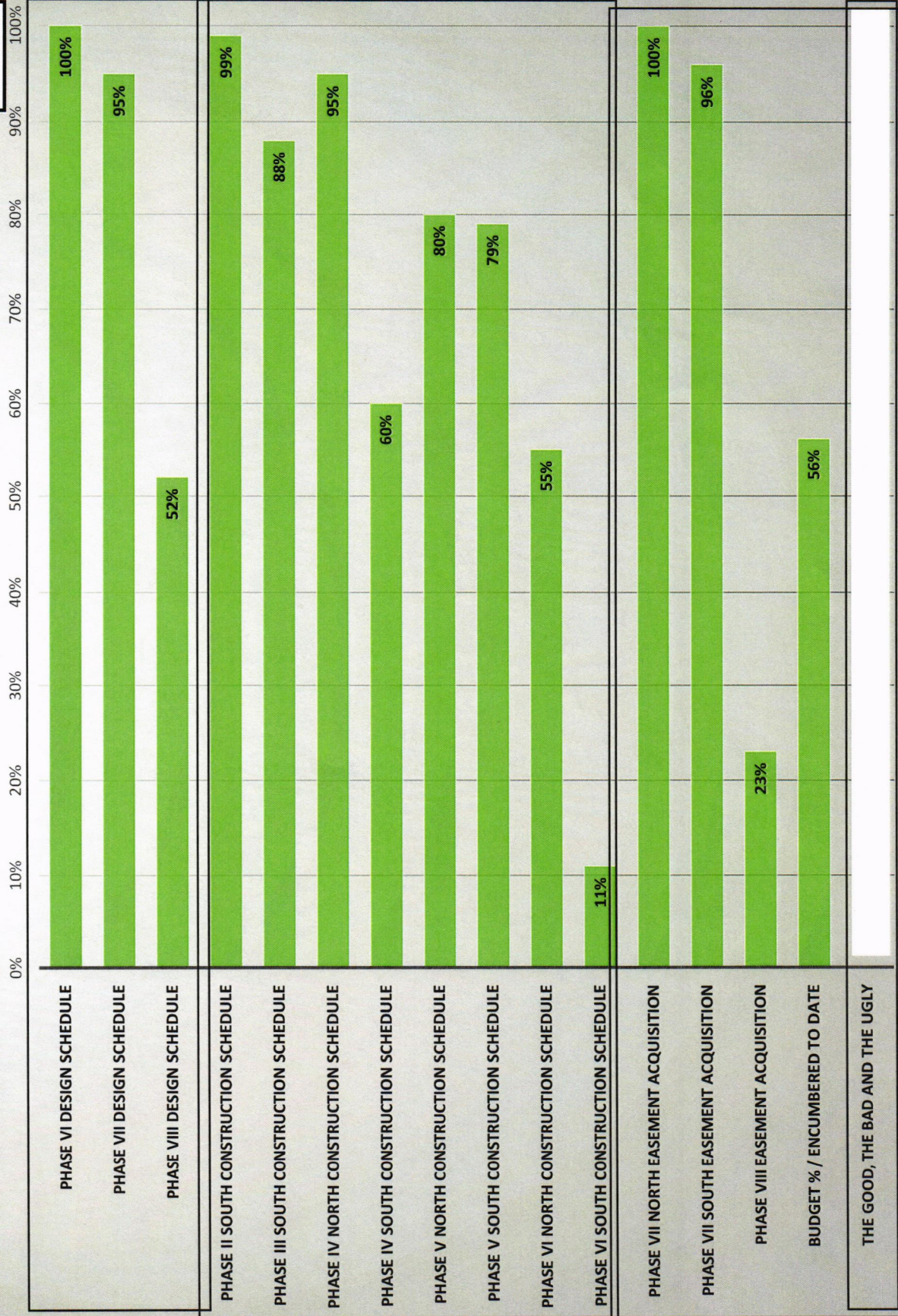
cc: Bob Miracle, Deputy Town Manager
Kevin Schanen, Kimley-Horn & Associates

Underground Utility Project Budget
Phase 7 Project Costs
October 31, 2023

	OPC	Dec 2019 OPC	Budget	Actual	% Expended
Phase 7 Design					
Kimley Horn					
Task 1.1 Phase 7 North Design	\$ 450,000		\$ 492,488	\$ 492,488	100.0%
Task 1.2 Phase 7 South Design	\$ 480,000		\$ 630,830	\$ 611,905	97.0%
Task 1.3 Bid Phase Assistance North and South			\$ 35,938	\$ 24,797	69.0%
Task 1.4 Meetings North and South			\$ 77,616	\$ 77,535	99.9%
Total Phase 7 Design	\$ 930,000	\$ 1,237,000	\$ 1,236,872	\$ 1,206,726	97.6%
Utility and Construction Costs					
Phase 7 North Construction	\$ 5,140,000	\$ 7,005,000			
Preconstruction			\$ 47,500	11,515	24.2%
Construction			\$ 10,472,977		
Chicane Demonstrations			\$ 47,500	19,558	41.2%
FPL Design Cost			\$ 15,806	27,165	171.9%
ATT Design Cost					
Comcast Design Cost					
Utility Costs (FPL, Comcast, AT&T)					
Construction Engineering (KH)			\$ 354,458	5,984	1.7%
Total Phase 7 North Construction	\$ 5,140,000	\$ 7,005,000	\$ 10,938,241	\$ 64,222	0.6%
Phase 7 South Construction	\$ 5,380,000	\$ 7,320,000			
Preconstruction			\$ 47,500	11,515	24.2%
Construction					
Chicane Demonstrations			\$ 47,500	19,558	41.2%
FPL Design Cost			\$ 19,953	19,953	100.0%
ATT Design Cost					
Comcast Design Cost					
Utility Costs (FPL, Comcast, AT&T)					
Construction Engineering (KH)					
Total Phase 7 South Construction	\$ 5,380,000	\$ 7,320,000	\$ 114,953	\$ 51,026	44.4%
Easement Acquisition/Abandonment	\$ 280,000	\$ 348,000			
<i>Kimley Horn Easement Assistance</i>					
Easement Assistance			\$ 346,459	\$ 346,356	100.0%
Easement Assistance			\$ 69,964	\$ 69,919	99.9%
Surveys					
Legal Sketch					
Legal Ads			\$ 1,000	\$ 113	11.3%
American Acquisition Group					
Temp Services					
Legal Advertising					
Recording Costs			\$ 5,000	\$ 4,342	86.8%
Total Easement Acquisition Costs	\$ 280,000	\$ 348,000	\$ 422,423	\$ 420,729	99.6%
Total Phase 7 Costs	\$ 11,730,000	\$ 15,910,000	\$ 12,712,489	\$ 1,742,702	13.7%

Town of Palm Beach - Underground Utility Project Dashboard - October 2023

Status Legend
 Green - On Task
 Yellow - Caution
 Red - Not on Task
 Complete - Not Shown



TOWN OF PALM BEACH

Town Council Meeting on: January 9, 2024

Section of Agenda

Regular Agenda - New Business

Agenda Title

Wells Fargo Site - Review and Feedback of Comprehensive Plan Amendments and Zoning Code Amendments

TIME CERTAIN: 2:00 P.M.

Presenter

Wayne Bergman, Director of Planning, Zoning and Building

ATTACHMENTS:

- ▣ **Memorandum dated December 28, 2023, from Wayne Bergman, Director of Planning, Zoning & Building**
- ▣ **Letter of Intent**

TOWN OF PALM BEACH

Information for Town Council Meeting on:

January 9, 2024

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

From: Wayne Bergman, Director of Planning, Zoning & Building

WB

Re: Comprehensive Plan and Zoning Map and Text Amendment for a new Planned Unit Development at 239-255 South County Road

Date: December 28, 2023

STAFF RECOMMENDATION

Pursuant to Code Section 134-261, staff recommends that the Town Council consider the privately initiated text and map amendment of Josh Martin, AICP, CNU-A, on behalf of the Frisbee Group for review and feedback for the property located at 239-255 South County Road, commonly referred to as the Wells Fargo site.

GENERAL INFORMATION

Attached please find a privately initiated text amendment to create a new Planned Unit Development (PUD) for the Wells Fargo site located at 239-255 South County Road. As stated in the December 14, 2023 Letter of Intent (see attached), the proposed PUD is now being referred to as the East Plaza Preservation Plan.

Presently, the subject site consists of two Future Land Use designations of Single Family Residential and Commercial and three zoning districts under single ownership. Those zoning districts being R-B Low Density Residential, C-TS Commercial Town-Serving and C-B Commercial. The current zoning allows four residential dwelling units per acre for the R-B, six residential dwelling units in the C-TS, and the C-B does not provide for a residential density. The 6.26 acre site currently would yield a maximum density of 20 dwelling units (Seven in R-B and 13 in C-TS).

The proposal is to amend the Future Land Use Map to consolidate the subject site under one Future Land Use category of Approved PUD and one Zoning District of a new PUD zoning district. Based upon a conflicting application (the Letter of Intent did not match the proposed draft ordinance), staff met with the applicant on December 27, 2023. It was agreed upon that a map amendment to a new PUD-D zoning district is necessary. The proposed text amendment will address the specific uses and land development regulations, which requires a Special Exception Approval for a new "PUD-5" for the entire site.

According to the submittal, the proposed uses are residential (both single-family and multi-family) and 35,000 square feet of commercial use, namely the Wells Fargo Bank. The proposed East Plaza Preservation Plan specifies a density of seven dwelling units per acre, up to three stories of building height by right, and calls for four distinct subareas that define the proposed uses, maximum density, number of stories, and bulk regulations. Common amenities are also proposed, such as a swimming pool and community building, green spaces and vias and an underground parking garage.

Additionally, the application proposes procedural changes to the Zoning Code related to PUDs. More specifically, the proposed language compresses the current two step approval process of the Tentative and Final plat into one step, amends the PUD approval process with regards to public hearings, addresses the granting or denial of applications, removes the ability to request variances, speaks to possible sunset provisions, specifies architectural and landscape design elements, and requests alternative parking and loading requirements.

It is worth noting that at the November 8, 2023, the Planning & Zoning Commission made a recommendation (on a vote of 4 to 3) to the Town Council to not allow new PUD's to be created. However, the subject application was already in the land use development review queue at that time.

As the Town is currently updating the Comprehensive Plan and the Zoning Code, staff is requesting attention to the timing of the proposed text and map amendments. In particular, staff is concerned with unintended consequences with simultaneous amendments by the private sector and the Town to the Comprehensive Plan and Zoning Code. Discussion is warranted as to whether the proposed zoning text amendment should be analyzed with the remainder of the zoning districts and associated regulations under review by ZoneCo.

Attachment: Applicant Letter of Intent

cc: James Murphy, Assistant Planning Director
Jennifer Hofmeister-Drew, Planner III, AICP

**LETTER OF INTENT
EAST PLAZA PRESERVATION PLAN
DECEMBER 14, 2023**

PROJECT NARRATIVE

The Development Review Application for East Plaza Preservation Plan requests the proposed revitalization of nearly six Palm Beach acres, known as the Wells Fargo property, bounded by Royal Palm Way to the south, South County Road to the west, Seaview Avenue to the north, and South Ocean Boulevard to the east. The proposed East Plaza Preservation Plan (see reference plat in Exhibit N) plans to de-intensify the site via a redevelopment plan comprised of residential uses along the Royal Palm Way frontage and in the interior of the site, in addition to the existing office use (Wells Fargo) being reformatted and downsized along South County Road. This plan will be accomplished with a proposed rezoning of the entire site to a Planned Unit Development (PUD). Wells Fargo will return to the site as the only commercial user and will occupy $\pm$ 35,000 SF of office space along South County Road. A new office building is proposed at the corner of South County Road and Royal Palm Way. Wells Fargo will occupy the ground floor and some of the second floors of the existing, landmarked buildings along South County, which will be left intact, but revitalized to modern standards as described herein. Wells Fargo customers and employees will access the site along Royal Palm Way and will park in a below grade garage on the northern portion of the site. The remaining portions of the second and third stories of the landmarked buildings will be residential in nature. All remaining uses on the site will be residential.

The guiding principles of the East Preservation Plan include the following:

- **Predictable Redevelopment Program**

The East Plaza Preservation Plan will limit the redevelopment of the site to the overall square footage of buildings that could be built today under the existing zoning without a variance. (We like to use the analogy that we are utilizing the same amount of clay but molded in a more town-serving and thoughtful presentation). Moreover, the proposed buildable square footage on the site will be limited in its use to be predominantly residential (83% of the site) coupled with one non-residential use (Wells Fargo bank in a reduced footprint) which will occupy just over 17% of the site. This town-serving program results in a de-intensification of the existing zoning and uses on the site today.

- **De-intensifying the Site.**

To maintain consistency with the Town of Palm Beach's Comprehensive Plan, the East Plaza Preservation Plan will eliminate regional-serving, commercial development (businesses like hotels, restaurants, bars, and clubs). The existing zoning on the site overwhelmingly promotes regionally attractive uses as 70% of the site is zoned for commercial use only. To maintain the charm and tranquility of Palm Beach, the East Plaza Preservation Plan will reduce the existing commercial square footage along South County Road and prohibit any future commercial use anywhere else on the site. This effort will further the residential fabric of Palm Beach with a series of buildings, green spaces, and vias, inspired by Palm Beach's famed architects and most beloved spaces.

- **Reducing Density**

Rather than pursue the high-density uses permitted with the existing zoning of the site which could yield densities of 26 units per acre, the East Plaza Preservation Plan will promote a reduced density of less than 7 units per acre. This reduced density is congruent with the residential densities of surrounding enclaves such as Phipps Plaza and the Sea Streets. Moreover, the planned residential density of the East Plaza Preservation Plan will be in keeping with the residential uses historically planned for the site.

- **Contextualized Height, Scale, and Mass + Building Typology**

Frisbie Group has designed all building heights to be contextual with adjacent neighbors to ensure massing and scale are in keeping with the surroundings. The northern portion of the site adjacent to the existing Seaview Avenue neighborhood will be single-family detached residences limited to two stories in height with building footprints reminiscent of Sea Street cottages. The buildings south of these single-family detached residences will transition from two stories in height to two and a half stories in height located in the center of the site, framing the central open spaces, and finally, to three stories in height along Royal Palm Way, whose broad right-of-way width can appropriately accommodate the proposed height. Alongside this height, scale, and mass transition, the building typologies will shift from single-family detached residences to single-family attached (town house) residences and then residences in the “flat” typology along Royal Palm Way.

- **Increased Green Open Space**

In place of the existing impervious, surface parking lot, the East Plaza Preservation Plan will create charming green open spaces. For relative comparison, the proposed plan will create more green open space than exists in Phipps Plaza today. These shaded, interconnected gardens will be accessible to Palm Beach residents and reflective in their design of the beloved vias and courtyards off Worth Avenue and in Via Flagler, as well as those central green spaces of Phipps Plaza, the Society of the Four Arts, Town Hall Square, and Earl Smith Park.

- **Reduced Traffic**

By converting the property from primarily dense commercial zoning to mainly residential zoning, the proposed East Plaza Preservation Plan limits permitted uses on the site to only residential and Wells Fargo bank uses. As a result, the proposed plan will reduce, by 40%, the Average Daily Trips (ADT) of vehicles traveling to and from the site. The proposed plan represents an even greater reduction in traffic when compared to what could be developed on the site under the existing zoning. This overall reduction in traffic is one of the many goals of our de-intensification program.

- **Planned Unit Development (PUD) Zoning**

The Town of Palm Beach Zoning Code contains a zoning designation that is named “Planned Unit Development” (PUD), which is a land use regulation that involves more restrictive and site-specific regulations versus other standard zoning districts. Simply put, a PUD is a development project a municipality considers comprehensively at one time, usually in the zoning process employed to approve a site plan. The proposed PUD-5 will contain a site plan and site-specific regulations under which the property will be redeveloped. The

proposed PUD-5 will downzone the Wells Fargo site that is limited to residential and one non-residential use - the Wells Fargo bank in a reduced footprint. No other commercial uses will be permitted on the site. The proposed PUD-5 will provide residents with certainty of where buildings will be specifically located on the site and will address the buildings' height, scale, and mass alongside the rezoning of the property, creating a significantly more restrictive zoning designation than exists today.

- **Alternative Redevelopment Proposals**

Instead of the proposed East Plaza Preservation Plan, the Town of Palm Beach could be faced with alternative redevelopment plans that utilize the existing zoning (70% commercial) to intensify the uses on the site, thereby promoting regionally attractive commercial entities that will generate high traffic and congestion. The commercial uses allowed by zoning on the site today include hotels, condo-hotels, timeshares, marijuana shops, and restaurants, all of which could be approved and built under an alternative development strategy.

- **Proactive Preservation of Non-Landmarked Buildings**

The East Plaza Preservation Plan will exceed town landmarking requirements by preserving facades and buildings that are not currently landmarked. In addition to preserving all of the landmarked facades along South County Road, the East Plaza revitalization will preserve even more: the northern façade and the original building form of the Mizner building at the corner of Seaview Avenue and South County Road (which is not landmarked), and in addition it will restore the Volk building at the corner of South County Road and Royal Palm Way, also a building that is not landmarked in any capacity.

This preservation mentality applies also to the new residential portion of the revitalization, as our team drew design inspiration from the architectural founding fathers of Palm Beach: the “Big Five” architects including Addison Mizner, Howard Major, Marion Sims Wyeth, Maurice Fatio, and John Volk. Their work and individual styles will be echoed throughout the site. This approach allows the entire site to not only exist in harmony with its surroundings, but to appear as if it evolved slowly over time, seamlessly integrating into the historic fabric of Palm Beach, thus making Palm Beach more Palm Beach.

Existing Site Conditions

The subject property contains 250,956 square feet of land or 5.76 acres (6.27 Palm Beach acres), more or less (see Exhibit A for a survey and legal description of the subject property).

Town of Comprehensive Plan Future Land Use Map

The Town of Palm Beach Comprehensive Plan designates a portion of the property as a Commercial Future Land Use Designation (72.2% of the subject property) and a portion of property as a Single Family Future Land Use Designation (27.8% of the subject property). Exhibit B, provided by the Town of Palm Beach, illustrates the existing Future Land Use Designations of the subject property. The Town of Palm Beach Comprehensive Plan details the aforementioned future land use designations as follows:

- *Single Family Uses:* This is the most predominant land use in the Town. The Future Land Use Plan Map designates 1,103 acres of land for this use. The preferred locations are those with good visual qualities, buffered from annoying traffic influences with easy access to shopping and recreation. Appropriate uses include estates, single-family homes, residential PUDs, and cluster development up to a maximum density of four dwelling units per gross Palm Beach acre (40,000 square feet). Public uses and facilities, public and private schools, group homes and foster care facilities, essential services, and private group uses, and cultural uses are also permitted within this category on a limited basis; and
- *Commercial Uses:* While only one commercial category is specifically identified on the Future Land Use Plan Map, the Town provides for commercial uses at varying intensities under different zoning categories. The Plan designates about 93 acres for commercial uses, Appropriate uses include a wide range of commercial retail, service, professional and business uses largely intended to serve Town persons; hotels, motels, and time-sharing uses; public uses and facilities; public and private schools; private group uses; and residential uses located above the ground floor. Nonconforming buildings or structures unintentionally damaged or destroyed, such as by fire or other casualty, act of terrorism, war or act of God or nature may exceed what is permitted in this land use category and the land development regulations if rebuilt at the same density and/or intensity, on the same footprint and to the same size and configuration as those nonconforming buildings or structures being replaced. Actual construction to replace, restore or reconstruct the nonconforming building or structure shall commence within the time frame outlined in the land development regulations.

Town of Palm Beach Zoning Map + Code

The subject property is currently governed by three (3) distinct zoning designations in the Town of Palm Beach, each one allowing for varied density and intensity levels, as follows:

- *R-B Low Density Residential District:* The purpose of the R-B low density residential district is to provide for low density single-family residential use, as that term is defined in section 134-2, of moderately spacious character together with publicly operated recreational facilities and accessory uses as may be necessary or are normally compatible with residential surroundings. This district is located to protect and preserve existing development of this character and contains vacant land considered appropriate for such development in the future;
- *C-B Commercial District:* The purpose of the C-B commercial district is to create an environment especially suited to a group of professional and administrative offices compatible in appearance with single-family housing; and
- *C-TS Town-Serving Commercial District:* The purposes of the C-TS town-serving commercial district are to:

- Create, preserve, and enhance areas of attractive, small-scale, retail, personal and professional/business services to be developed either as a unit or in individual parcels, providing for the frequently recurring needs of townpersons; and
- Enhance the general character of the district and its compatibility with its residential surroundings, and, therefore, signs are limited to those accessory to businesses conducted on the premises, including the number, area and types; retail drive-in facilities are not permitted, and, in order to maintain the town-serving nature of the district, limitations on gross leasable floor (GLA) area are imposed.

Exhibit D contains complete versions of each zoning district as it exists in the Town of Palm Beach Zoning Code today. Exhibit C, provided by the Town of Beach, illustrates the distribution of each zoning district on the subject property as follows:

- R-B Low Density Residential District: 30% of the subject property;
- C-B Commercial District: 34% of the subject property; and
- C-TS Town-Serving Commercial District: 36% of the subject property.

All in all, 70% of the subject property's existing zoning promotes commercial uses and intensities.

Landmarked Facades

The Wells Fargo Site also includes a series of Landmarked Buildings fronting South County Road which places the entire site under architectural review by the Town of Palm Beach Landmarks Preservation Commission. Exhibit E, provided by the Town of Palm Beach, illustrates the Landmarked Facades along South County Road. A copy of the Landmark Designation Report and Ordinance resides in Exhibit to this application.

After repeated attempts to landmark the buildings in the early 1980s (including an attempt to create a Phipps Plaza Historic District), in 1991 the Town of Palm Beach landmarked those buildings north of the corner building at South County Road and Royal Palm Way. The landmark resolution stated "Only the facade fronting South County Road is designated. The designation to a depth of a maximum of 15 feet is for purposes only of ensuring that the facade is adequately supported from an engineering point of view. There is no designation on the interior of the buildings." It is important to note that the western facade of the building at the corner of South County Road and Seaview Avenue is landmarked. The northern facade fronting Seaview Avenue is not landmarked, but our team believes the building maintains the highest architectural significance of all of the buildings on this block and as a result the northern facade as well as the building as a whole should be preserved as part of the overall preservation approach to the site. This three-story building was designed by Addison Mizner in the 1920s. With stucco as the main exterior finish material, cut coral stone is used at the first level and as decorative architectural elements while clay barrel tile is used on the roof. The building's facade is strongly defined horizontally at each floor level by cut coral stone bands and the fenestration at each floor is articulated differently. At the South County Road level, three full story arches relate this building to the surrounding public realm. At the second level are four casement windows and at the third level are three casement windows in arched openings flanked by a rectangular window opening at each side. Finally, because of the height and general proportions of this structure it acts as a strong anchor, an ending if you will, to the block of buildings it is incorporated into.

All the buildings on this side of the block, even though several were built by different architects at different times, are now bank property. Having been painted uniformly in yellow and white, they now present one combined facade, and the individual buildings now represent “facade units”. It must be emphasized that their original separateness, where it may have existed, can no longer be distinguished. Facade preservation is the practice of preserving a structure’s facade, or face, while constructing a new building behind it. It is a method that compromises between complete building renovation and restoration. Facade preservation is also a technique frequently used in adaptive reuse. The National Trust for Historic Preservation supports protecting facades perpetually using a local government legal mechanism known as landmarking. The National Trust for Historic Preservation believes facade preservation protects properties that have historic, architectural, or archaeological significance. This practice is commonly found across the US and abroad.

The East Plaza Preservation Plan will comply with The Secretary of the Interior's Standards for the Treatment of Historic Properties (see Exhibit Q). The purpose of The Secretary of the Interior’s Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings (2017) is to provide guidance to historic building owners and building managers, preservation consultants, architects, contractors, and project reviewers prior to beginning work. It is always recommended that preservation professionals be consulted early in any project. Specifically, our team will comply with the Guidelines for Preserving Historic Buildings. The Standards for the Treatment of Historic Properties address four treatments: preservation, rehabilitation, restoration, and reconstruction. As stated in the regulations promulgating the Standards, “one set of standards ...will apply to a property undergoing treatment, depending upon the property’s significance, existing physical condition, the extent of documentation available, and interpretive goals, when applicable. The Standards will be applied taking into consideration the economic and technical feasibility of each project.” These Standards apply not only to historic buildings but also to a wide variety of historic resource types eligible to be listed in the National Register of Historic Places. This includes buildings, sites, structures, objects, and districts.

Adaptive reuse, the process of taking an old site or building and repurposing, is one of the leading processes in reducing urban sprawl and conserving land. Facade preservation overlaps with this concept, as they both involve taking pieces of the old, and making it new. As a type of adaptive reuse, the facade preservation process involves preserving, restoring, and using the building’s original face while constructing an interior from scratch. Architectural facades can be contentious. If done poorly, facade preservation can appear as an architectural Frankenstein; tasteless, mismatched, and ostentatious. But when done correctly, it is an effective bridge between the old and the new. The process retains the historic front of a structure, while renovating and reconstructing the building’s interior to match modern building practices.

The Volk corner building located at the intersection of South County Road and Royal Palm Way is not landmarked in any fashion, but the Applicant intends to honor its existence in the overall composition of buildings along South County Road from Seaview Avenue to Royal Palm Way by preserving that building through a renovation process that will allow it to adapt to Wells Fargo’s current needs to better support the community.

The First National Bank/Wells Fargo buildings, an artistic architectural composition defining an entire block at the east side of South County Road just north of the corner building at Royal Palm

Way, represents a combination of single structures linked to form one major building element. Although created by several architects over a period of years, all the buildings relate remarkably well to one another. Within the group no single structure stands out as a dominant feature, but each does offer a visual stimulus that prevents the composition from being pedestrian and banal. The use of materials, stylistic details, and similar massing strengthens the unity between the individual units. At the scale of the Town of Palm Beach, this is an extremely important streetscape. Defining an entire block at the most prominent intersection in town the composition is highly visible and should be considered as a focal element. The block-long structure is located at the transitions between residential and commercial areas of the town. The overall composition will retain its unity only if each element is allowed to remain, filling its part of the tout ensemble. The buildings are united at the interior to form the functional spaces necessary to conduct the business of the bank. It should be noted that the interior decoration and spatial sequences are not significant architectural components. In all probability, an architectural composition such as this would be impossible to replace, thus giving added incentives to respect and retain the facades as they exist today. Over time, the bank has succeeded in aiding the appearance of Palm Beach by creating an inimitable streetscape whilst asserting its own identity. This is a praiseworthy effort and in fact in unifying so many structures in what New Orleans terms “the tout ensemble,” the varied rooflines and the bespoke lexicon of architectural details, the pediments and towers, all form unparalleled public realm that is truly a gift to the street.

Existing Buildings

There is currently ± 60,000 leasable square feet of commercial space (office and retail space) on the subject property, with the majority being office space leased by Wells Fargo.

Town of Palm Beach Comprehensive Plan, Official Zoning Map, Zoning Code, and Landmarks Preservation Requests In General

To facilitate the East Plaza Preservation Plan, in general, the Applicant requests the following as part of this application:

- Amend the Town of Palm Beach Comprehensive Plan Future Land Use Map (map amendment--see Exhibit E) to revise the Future Land Use Designation of the subject property from “Commercial” and “Single Family” to “Approved PUD”;
- Amend the Town of Palm Beach Comprehensive Plan Future Land Use Element (text amendment--see Exhibit F) to provide for the creation of PUD-5;
- Amend the Town of Palm Beach Official Zoning Map (map amendment-see Exhibit G) to revise the existing zoning of the subject property from “C-TS Town-Serving Commercial District”, “C-B Commercial District”, and “R-B Low Density Residential District” to “Planned Unit Development (PUD-5);
- Amend the Town of Palm Beach Zoning Code (text amendment—see Exhibit H) Article V, Planned Unit Development Procedure, to provide for the creation of PUD-5 to be permitted in the existing zoning districts of the subject property and provide for a permitted density of no more than seven (7) dwelling units per Palm Beach acre;
- Amend the Town of Palm Beach Zoning Code (text amendment—see Exhibit H) Article V, Planned Unit Development Procedure, to provide for the creation of the PUD-5 Code and Regulating Plan (see Exhibit I) that will govern land development regulations on the subject property contained within Article V;

- Request Site Plan Review and Consideration by Town Council per Article V, Planned Unit Development Procedure; and
- Request Rezoning Review and Consideration of all requests by the Planning & Zoning Commission and Town Council.

Please reference Exhibits S & T for draft ordinances related to the requests.

Per Section 134-261, b. which states “Any proposed amendment, supplement, change, modification, or repeal shall first be submitted as an initial review to the director of planning, zoning, and building or his designee, who shall submit it to the town council for its review and feedback”, the Applicant requests review by Town Council at their January 10, 2024 Development Review Meeting.

Applicable Comprehensive Plan, Zoning Code, and Municipal Code Sections

Comprehensive Plan Sections

- Future Land Use Element
- Transportation Element (Exhibit K)
- Historic Preservation Element (Exhibit L)

Municipal Code Sections

- Chapter 54, Historical Preservation

Zoning Code Sections

- Article II, Administration
- Article III, Site Plan
- Article V, Planned Unit Development Procedure
- Article VI, District Regulations
 - Division 4. R-B Low Density Residential District
 - Division 8. C-TS Town-Serving Commercial District
 - Division 12. C-B Commercial District
 - Division 14. PUD Planned Unit Development District

Planned Unit Development Procedure

This Letter of Intent and Exhibits serve as the application for Planned Unit Development (PUD) Zoning for the subject property, more specifically PUD-5. Chapter 134, Zoning, Article V, Planned Unit Development Procedure, Division 2. Procedure, Subdivision II. Tentative Approval, Section 134-531. Application, Sections 1, 2, and 3 outline the required information that shall be submitted with the application as follows (complete with Applicant Response):

- a. The location and size of the site and the nature of the landowner's interest in the land proposed to be developed.

***Applicant Response:** The location of the subject property is in the Town of Palm Beach, Florida, located at the intersection of Royal Palm Way and South County Road (see Exhibit A: Subject Property Survey and Legal Description). The subject property comprises 250,956 square feet of land or 5.76 acres (6.27 Palm Beach acres), more or less. The Parcel Control Numbers (PCN) for the subject property are: 50434323050220220, 50434323040000010, 50434323030000010, and 50434323000040090. Please see Exhibit W for the Letter of Agency for this application.*

- b. The density of land use to be allocated to parts of the site to be developed.

***Applicant Response:** The proposed land uses in the PUD-5 include residential and a bank. The Site Plan (Exhibit O) illustrates the density of land use proposed for the subject property. The proposed residential density shall not exceed seven (7) dwelling units per Palm Beach acre.*

- c. The location and size of any common open space and the form or organization proposed to own and maintain any common open space.

***Applicant Response:** The Site Plan (Exhibit O) illustrates the location and size of any common open space proposed for the subject property. The proposed open space will be owned and maintained by a condominium property regime that would be formed when the PUD-5 is approved by the Town of Palm Beach.*

- d. The use and the approximate height, bulk and location of buildings and other structures.

***Applicant Response:** The East Plaza Preservation Plan Conceptual Architecture, Landscape Architecture, and Civil Plan Set (Exhibit P) illustrates the specific height, bulk, and location of buildings and other structures.*

- e. The feasibility of proposals for the disposition of sanitary waste and stormwater.

***Applicant Response:** The Applicant has included Concurrency Management Letters of Availability for sanitary waste and stormwater (Exhibit M).*

- f. The substance of covenants, grants of easements or other restrictions proposed to be imposed upon the use of the land, buildings and structures including proposed easements or grants for public utilities.

Applicant Response: Once development plans are approved for the East Plaza Preservation Plan, the Applicant will work with Town Staff to coordinate proposed covenants, grants of easements, or other restrictions on the subject property.

- g. The provisions for parking of vehicles and the location and width of proposed streets and public ways.

Applicant Response: The East Plaza Preservation Plan provides for the parking of vehicles at grade and below grade in a structured parking garage as shown in The East Plaza Preservation Plan Conceptual Architecture, Landscape Architecture, and Civil Plan Set (Exhibit P). The exhibit also includes the location and width of proposed streets and public ways.

- h. The required modifications in the town land use regulations otherwise applicable to the subject property.

Applicant Response: In order to facilitate the East Plaza Preservation Plan, in general, the Applicant requests the following as part of this application:

- *Amend the Town of Palm Beach Comprehensive Plan Future Land Use Map (map amendment--see Exhibit E) to revise the Future Land Use Designation of the subject property from "Commercial" and "Single Family" to "Approved PUD";*
- *Amend the Town of Palm Beach Comprehensive Plan Future Land Use Element (text amendment--see Exhibit F) to provide for the creation of PUD-5 East Plaza Preservation Plan;*
- *Amend the Town of Palm Beach Official Zoning Map (map amendment--see Exhibit G) to revise the existing zoning of the subject property from "C-TS Town-Serving Commercial District", "C-B Commercial District", and "R-B Low Density Residential District" to "Planned Unit Development (PUD-5);*
- *Amend the Town of Palm Beach Zoning Code (text amendment—see Exhibit H) Article V, Planned Unit Development Procedure, to provide for the creation of PUD-5 to be permitted in the existing zoning districts of the subject property and provide for a permitted density of no more than seven (7) dwelling units per Palm Beach acre;*
- *Amend the Town of Palm Beach Zoning Code (text amendment—see Exhibit H) Article V, Planned Unit Development Procedure, to provide for the creation of the East Plaza Preservation Code and Regulating Plan (see Exhibit I) that will govern land development regulations on the subject property contained within Article V;*
- *Request Site Plan Review and Consideration by Town Council per Article V, Planned Unit Development Procedure;*
- *Request a Certificate of Appropriateness for the Site Plan + Architecture Plans for the East Plaza Preservation Plan per Town of Palm Beach Municipal Code Chapter 54, Historical Preservation (Exhibit J); and*

- *Request Rezoning Review and Consideration by the Planning & Zoning Commission and Town Council.*

Please see draft ordinances related to the PUD-5 Rezoning Request in Exhibits S and T.

- i. For plans that call for development over a period of years, a schedule showing the proposed times within which application for final approval of all sections of the planned unit development are intended to be filed.

Applicant Response: The filing of this application requests final approval of all sections/phases of the planned unit development.

- j. For PUD-4, a complete description of the historical and/or architecturally significant structures and/or premises and provisions for their preservation. The portion of the property to be devoted to the preservation shall be delineated.

Applicant Response: N/A.

- k. The application for tentative approval of a planned unit development shall include a written statement by the landowner or any other entity having a cognizable interest in the land, setting forth the reasons why, in his opinion, a planned unit development would be in the public interest and would be consistent with the town's statement of purposes on planned unit development.

Applicant Response: Section 134-1391 of the Town of Palm Beach Zoning Code states the following:

“The purpose of planned unit development regulations is to:

- *Encourage flexibility in the design and development of land to promote its most appropriate use;*
- *Facilitate the adequate and economical provision of streets, utilities, and public spaces; and*
- *Preserve the natural and scenic qualities of open areas.*

The procedure is intended to permit diversification in the location of structures and improve circulation facilities and other site qualities while ensuring adequate standards relating to public health, safety and welfare and morals both in the use and occupancy of buildings and facilities in planned groups.”

A Planned Unit Development (PUD) is a real estate development strategy that allows for the creation of a cohesive community or neighborhood by combining various types of residential, commercial, and recreational spaces within a single planned area. Unlike traditional zoning regulations, a PUD proposal provides detailed regulations and maps offering more specific guidelines than standard zoning districts. It's a more restrictive zoning approach that allows for detailed control over various aspects like land use and design, green spaces, scale, and building location. This approach promotes creativity in construction, fostering unique environments tailored to the needs of residents. PUDs often

prioritize shared resources, such as parks or community centers, fostering a sense of community harmony.

Why is this strategy needed for East Plaza? Over 70% of the site caters to commercial use, hindering the preservation of the town's quiet residential essence outlined in the 1929 Plan of Palm Beach. A Planned Unit Development aligns with the plan's vision, emphasizing high-quality housing, environmental sustainability, historic preservation, and less intense land use. Unlike the restrictive nature of current zoning, the PUD empowers comprehensive planning, ensuring flexibility and precision in accommodating diverse needs.

Through its focus on tailored regulations and adherence to community vision, the PUD represents a progressive step, facilitating a nuanced, user-friendly approach toward Palm Beach's historic and distinctive charm. The proposed Planned Unit Development for East Plaza Preservation Plan supports Palm Beach's historical residential emphasis, dedicating 83% of space to residential use, compared to the current 70% commercial zoning, harmonizing with the town's vision of preserving a serene residential environment. In addressing key town goals, such as minimizing high-traffic commercial development and maintaining existing patterns, the PUD proposal aligns with Palm Beach's unique character, safeguarding its charm and enhancing quality of life. The proposed East Plaza Preservation PUD will limit the buildable square footage to the same standards that are in place under the current zoning. The amount of square footage allowed on-site will remain the same.

The Applicant proposes to rezone the property to a Planned Unit Development that will address both the Comprehensive Plan's Future Land Use goals and objectives as well as the following Town Council-approved Vision Benchmarks of the Code Review Effort:

- 1) High-Quality Housing: develop high-quality homes at a scale that is sensitive to the surrounding context;*
- 2) Environmental Sustainability: preserve, protect, and enhance the Town's natural resources;*
- 3) Historic Preservation: preserve, protect, and enhance the Town's historic resources and distinctive character;*
- 4) Transportation: Provide a safe, efficient, and convenient transportation system; and*
- 5) Non-Intensification: Maintain existing land use patterns and discourage development at higher intensities or densities.*

Community Outreach: Planning in Public

Frisbie Group believes that proactive community outreach is an essential component of a successful placemaking and in this case a PUD. Not only do we believe it is our responsibility to be totally transparent with our neighbors and the various stakeholders of the communities in which we invest, but we also sincerely value their opinions and input and look to implement their feedback into the design of our projects. For that reason, concurrently with our design process for the East Plaza Preservation Plan, we have conducted an extensive preliminary listening and education campaign with Town of Palm

Beach Officials and Staff as well as Town of Palm Beach residents living near the site. We intend to continue these efforts throughout the entirety of our entitlement process.

The campaign kicked off in the Spring of 2023 with the goal of making the community aware of Frisbie Group and our general investment thesis, along with our goals for this site specifically; more importantly, we endeavored to listen to the community's concerns and hopes for the site. Since the beginning of the campaign, we have met with over 150 individuals, both residents and Town of Palm Beach officials. In these sessions, we have explained Frisbie Group's general investment approach, outlined our design process and goals for the East Plaza site, and have ultimately taken time to listen to feedback from everyone.

We began our outreach process by "pre-noticing" any resident who lives within 300 feet of the site and thus would ultimately receive a formal notice from the Town of Palm Beach regarding our development applications. Our philosophy is that we would like for our neighbors to receive a personal line of communication from Frisbie Group with an invitation to discuss further before receiving more formal communication following the submission of an application. The order of our outreach effort is below:

- *Neighbors who share a property line with the subject property;*
- *Residents on the northern side of Seaview Avenue;*
- *Property Owners/Residents along Royal Palm Way and South County Road;*
- *Residents on the 100 Block of Seaspray Avenue;*
- *Residents and business/property owners located in Phipps Plaza; and*
- *Remaining residents and property owners within the 300' notice radius.*

In addition to Town of Palm Beach residents, we also extended invitations to Town of Palm Beach officials and representatives including the Mayor, Members of Town Council, Members of the Landmarks Preservation Commission, Members of the Preservation Society, and Town Staff. To date, we have had individual meetings with most of these officials and representatives.

Ultimately, the feedback that we have received thus far has helped guide us in our decision making process throughout our design for the East Plaza site. We intend to continue these efforts throughout the public hearings process and continue to listen to and incorporate feedback from all stakeholders.

At last, the proposed Planned Unit Development for East Plaza Preservation Plan maintains consistency with The Town of Palm Beach Comprehensive Site Plan as follows:

Historic Preservation Element

The East Plaza Preservation Plan aligns with the goals, objectives, and policies outlined in the Historic Preservation Element of the Town of Palm Beach Comprehensive Plan, particularly addressing Objective 1. The East Plaza Preservation Plan is designed to preserve, protect, and enhance the historic and prehistoric resources of the town, ensuring

the perpetuation of properties with special notable aesthetic, architectural, and historical significance.

Specifically, the East Plaza Preservation Plan directly responds to Policy 1.3 of Objective 1 by exceeding town landmarking requirements. Our commitment goes beyond preserving only the landmarked facades along South County Road; it extends to safeguarding additional significant elements, such as the northern façade and the original building form of the Mizner building at the corner of Seaview Avenue and South County Road (currently not landmarked). Furthermore, the plan includes the restoration of the Volk building at the corner of South County Road and Royal Palm Way, another non-landmarked structure. This comprehensive preservation strategy demonstrates our dedication to preventing the destruction of Historic Landmark Structures, as advocated in the Town's Code of Ordinances. Moreover, our commitment goes above and beyond by preserving non-landmarked structures that are perceived to be historic and charming in the eyes of certain town residents and stakeholders, ensuring that the revitalization project aligns not just with formal requirements but with the broader cultural and historical appreciation of the community.

Moreover, our commitment to historic preservation extends beyond physical structures. The East Plaza Preservation Plan embraces Policy 1.5 of Objective 1 by actively promoting educational initiatives, including a Historic Marker Program. By incorporating such programs, we aim to contribute to the broader community's understanding of the historical significance embedded in the site.

In the design of the new residential portion of the revitalization, we draw inspiration from Palm Beach's architectural founding fathers—the "Big Five" architects. Their influence is reflected in our designs, echoing their individual styles, and ensuring that the new construction harmoniously integrates with the historic fabric of Palm Beach. This approach not only meets the town's preservation objectives but also contributes to the ongoing legacy of Palm Beach, enhancing its unique identity and historical charm.

Future Land Use Element

The East Plaza Preservation Plan aligns with the goals, objectives, and policies outlined in the Future Land Use Element of the Town of Palm Beach Comprehensive Plan, with a particular focus on addressing Objective 2. The East Plaza Preservation Plan is meticulously designed to preserve, protect, and enhance the character of the town as a predominantly residential community, allowing only the type and number of businesses and support services essential to meet the needs of Town residents.

In accordance with the Town of Palm Beach's Comprehensive Plan, specifically Objective 2 of the future land use element, the East Plaza Preservation Plan takes proactive measures to eliminate regional-serving, commercial development, such as hotels, restaurants, bars, and clubs. Recognizing the existing zoning's inclination toward regionally attractive uses (with 70% of the site zoned for commercial use), the plan strategically reduces the commercial square footage along South County Road while retaining Wells Fargo, a longstanding business that has served Palm Beach residents since 1927. This commitment is reinforced by a perpetual prohibition on any future commercial use elsewhere on the site,

aligning with the comprehensive plan's objective to maintain the character of the town as a predominantly residential community.

Moreover, the East Plaza Preservation Plan goes beyond zoning adjustments to fulfill the vision of the 1929 plan, which called for a "system of leisurely and convenient byways free from automobiles, punctuated with gardens." In place of the existing impervious surface parking lot, the plan reimagines the site by concealing all parking below grade. This transformation creates charming green open spaces, reminiscent of the beloved vias and courtyards off Worth Avenue, Via Flagler, and the central green spaces of Phipps Plaza, the Society of the Four Arts, Town Hall Square, and Earl Smith Park. Notably, the proposed plan exceeds the green open space in Phipps Plaza today, fostering a tranquil and verdant environment in line with the historic vision and charm of Palm Beach.

Transportation Element

The East Plaza Preservation Plan aligns seamlessly with the transportation goals, objectives, and policies outlined in the Transportation Element of the Town of Palm Beach Comprehensive Plan. Our proposed plan not only complies with these goals but actively contributes to the town's ongoing efforts to address its distinctive transportation challenges.

Our East Plaza Preservation Plan directly supports the Transportation Element of the comprehensive plan by transitioning the property from primarily dense commercial zoning to predominantly residential zoning. This strategic shift limits permitted uses on the site to only residential and a Wells Fargo bank, which harmonizes with the town's long-standing philosophy of promoting a residential character. This proposed de-intensification plan results in a substantial reduction in traffic congestion when compared to existing and potential commercial uses. Our traffic engineering experts at Kimley Horn and Associates estimate that the Average Daily Trips (ADT) to and from the site will decrease by 40% when compared to current usage. Moreover, when compared to what could be developed on the site under the existing zoning or certain commercial development scenarios, the reduction in traffic becomes even more significant, ranging from 2.5x to 6x fewer average daily trips, due to the transition to less traffic-intensive residential uses.

We fully recognize the Town's parking predicament and have taken proactive measures to address it. Our proposed plan minimizes the strain on the Town's street infrastructure and eases level of service constraints by primarily proposing residential uses, with Wells Fargo Bank maintaining a reduced footprint as the sole commercial user, thereby reducing traffic intensity.

Furthermore, in alignment with the vision outlined in the 1929 Plan, our design actively discourages highly visible surface parking. All parking in our plan will be relocated below grade. This not only enhances the site's aesthetics and safety but also discourages unauthorized use of the parking facilities that currently exist and contribute to regional attraction. In the future, we are committed to ensuring that the site's beauty is preserved while providing ample, concealed parking for all users.

In continuation, Frisbie Group is dedicated to working collaboratively with our neighbors to find innovative solutions to mitigate parking issues. We are exploring options such as

offering the Bank's parking spaces to adjacent neighbors during nights and weekends to further alleviate parking challenges in the area.

Our East Plaza Preservation Plan demonstrates a clear commitment to preserving the town's quality of life, reducing traffic congestion, and addressing parking challenges. We are confident that our project not only complies with but also enhances the goals and objectives outlined in the Transportation Element of the Town of Palm Beach Comprehensive Plan. We eagerly anticipate further discussions and collaboration to ensure that this development distinctly contributes to the town's unique character and overall well-being.

Request for a Site Plan Review.**Zoning Code Section 134-329. Review by Town Council.**

Within 30 days of receipt of the application for site plan review, the town council shall review and consider the application. Before any site plan shall be approved, approved with changes, or denied, the town council shall make a finding that the approval of the site plan will or will not adversely affect the public interest and certify that the specific zoning requirements governing the individual use have or have not been met and that, further, satisfactory provision and an arrangement has or has not been made concerning the following matters, where applicable:

- (1) Sufficiency of statements on ownership and control of the subject property and sufficiency of conditions of ownership or control, use and permanent maintenance of common open space, common facilities, or common lands to ensure preservation of such lands and facilities for their intended purpose and to ensure that such common facilities will not become a future liability for the town.

Applicant Response: The subject property, located at the intersection of Royal Palm Way and South County Road (see Exhibit A: Subject Property Survey and Legal Description), is privately owned by Wells Fargo Bank which has complete ownership and control of the property and is responsible for its maintenance. This property does not contain any common facilities or common land that could become a future liability for the Town of Palm Beach.

- (2) Intensity of use and/or purpose of the proposed development in relation to adjacent and nearby properties and the effect thereon; provided, however, that nothing in this subsection shall be construed as granting the town council the authority to reduce residential densities below that permitted by the use regulations in article VI of this chapter.

Applicant Response: In order to maintain consistency with the Town of Palm Beach's Comprehensive Plan, the East Plaza Preservation Plan will eliminate regional-serving, commercial development (businesses like hotels, restaurants, bars, and clubs). The existing zoning on the site overwhelmingly promotes regionally attractive uses as 70% of the site is zoned for commercial use only. To maintain the charm and tranquility of Palm Beach, the East Plaza Preservation Plan will reduce the existing commercial square footage along South County Road and prohibit any future commercial use anywhere else on the site. This effort will further the residential fabric of Palm Beach with a series of buildings, green spaces, and vias, inspired by Palm Beach's famed architects and most beloved spaces.

- (3) Ingress and egress to the property and the proposed structure thereof, with particular reference to automotive and pedestrian safety; separation of automotive traffic; traffic flow and control; provision of services and servicing of utilities and refuse collection; and access in case of fire, catastrophe or emergency.

Applicant Response: Pedestrian and vehicular traffic flow and egress, emergency service access, and servicing of utility and refuse collection will all be enhanced as part of the revitalization while also reducing the existing vehicular and pedestrian conflicts that exist currently at the site.

- (4) Location and relationship of off-street parking and off-street loading facilities to thoroughfares and internal traffic patterns within the property, with particular reference to automotive and pedestrian safety, traffic flow and control, access in case of fire or catastrophe, and screening and landscaping.

Applicant Response: Off-street parking in this building is located both at the surface level and in a two-level underground parking garage. This will not change as a result of this property's renovation except for the deletion of some unneeded surface parking, which is unsightly and inconsistent with the Worth Avenue Design Guidelines as discussed below. The Applicant is also providing a shared parking study to demonstrate that adequate parking will be provided.

- (5) Proposed screens and buffers to preserve internal and external harmony and compatibility with uses inside and outside the property boundaries.

Applicant Response: The proposed East Plaza Preservation Plaza Site Plan includes a new approach to the site's landscape architecture including increased use of native plant species, ground level lush landscaping, shading of existing sidewalks, and enhanced front-yard buffers/landscaping will enhance the views from the surrounding, taller multi-family buildings that look down at the subject property.

- (6) Manner of drainage on the property, with particular reference to the effect of provisions for drainage on adjacent and nearby properties and the consequences of such drainage on overall town capacities.

Applicant Response: The proposed drainage plan will utilize the existing drainage systems that exist today at the subject property. The increase of pervious areas and landscaping will aid in preventing stormwater from releasing onto any of the adjacent properties. Please see Exhibit V, Conceptual Drainage Plan, of the Letter of Intent.

- (7) Utilities, with reference to hook-in locations and availability and capacity for the uses projected.

Applicant Response: The existing site is already served by all necessary utilities and the hook-in locations, availability and capacity will not change as a result of this project.

- (8) Recreation facilities and open spaces, with attention to the size, location, and development of the areas as to adequacy, effect on privacy of adjacent and nearby properties and uses within the property, and relationship to communitywide open spaces and recreation facilities.

Applicant Response: This is a privately-owned site and does not contain any recreational facilities.

- (9) Such other standards as may be imposed by this chapter for the particular use or activity involved.

Applicant Response: The Town's Zoning Code does not impose any special standards on mixed-use projects.

- (10) Height of commercial structures with reference to adjoining buildings, the effect on uniformity in height, and the general principle of retaining the low-profile scale of commercial architecture.

Applicant Response: Frisbie Group has designed all building heights to be contextual with adjacent neighbors to ensure massing and scale are in keeping with the surroundings. The northern portion of the site adjacent to the existing Seaview Avenue neighborhood will be single-family detached residences limited to two stories in height with building footprints reminiscent of Sea Street cottages. The buildings south of these single-family detached residences will transition from two stories in height to two and a half stories in height located in the center of the site, framing the central open spaces, and finally, to three stories in height along Royal Palm Way, whose broad right-of-way width can appropriately accommodate the proposed height. Alongside this height, scale, and mass transition, the building typologies will shift from single-family detached residences to single-family attached (town house) residences and then residences in the "flat" typology along Royal Palm Way.

- (11) Visible size and bulk. The proposed development should be so arranged that it minimizes the visible bulk of the structures to drivers and pedestrians on abutting roadways, the point of reference being the centerline of the abutting roadways, with the intent being to maintain visual impact of multistory buildings at the same relative level of intensity as a single-story building at the minimum required setback.

Applicant Response: Frisbie Group has designed all building heights to be contextual with adjacent neighbors to ensure massing and scale are in keeping with the surroundings. The northern portion of the site adjacent to the existing Seaview Avenue neighborhood will be single-family detached residences limited to two stories in height with building footprints reminiscent of Sea Street cottages. The buildings south of these single-family detached residences will transition from two stories in height to two and a half stories in height located in the center of the site, framing the central open spaces, and finally, to three stories in height along Royal Palm Way, whose broad right-of-way width can appropriately accommodate the proposed height. Alongside this height, scale, and mass transition, the building typologies will shift from single-family detached residences to single-family

attached (town house) residences and then residences in the “flat” typology along Royal Palm Way.

SITE HISTORY

The following provides a detailed history of all zoning-related requests applicable to this property processed on or after January 1, 1970, in chronological order, including but not limited to variances, special exceptions, site plan reviews, and existing agreements.

DATE	NATURE OF REQUEST/ACTIVITY	PROJECT IDENTIFIER OR NUMBER	COMMENT/NOTES
January 13, 1982	Certificate of Appropriateness	LPC #14	Exterior modifications and restoration of the Bank's main buildings. Approved by Landmarks on 1/13/1982
January 13, 1982	Certificate of Appropriateness	#2-82COA	Further information on LPC #14
January 18, 1982	General Conditions Document		General Conditions document for 1982 office renovation
December 10, 1986	Equipment Plan	P86070747	Equipment Plan Reviewed by various building and plan examiners
November 16, 1990	Designation Report		Designation of facades of South County Road buildings as landmarked by LPC
November 25, 1991	Survey	B-94-034056	Boundary Survey for Site
May 26, 1992	Plans/Specs	7031028	Reviewed by Plan Examination Inspector
June 22, 1992	Plans and Specs	80261	1992 Sign Reviewed by Plan Examiner and Building Inspector

DATE	NATURE OF REQUEST/ACTIVITY	PROJECT IDENTIFIER OR NUMBER	COMMENT/NOTES
September 2, 1992	Plans/Specs	6048330	Light fixture on overhang of corner building ARCOM Staff approval on 9/1/1992
January 12, 1993		SE-2-93	First National to continue operations in new name. Approved by Town Council conditioned on affidavit proving client base
June 1, 1993	Scope of Work	7032843	Detailing scope of work for roof replacement
December 1, 1993	Graphic Plans	6050051	Reviewed by TPB Electrical Inspector
December 6, 1993	Special Exception	SE-2-95	Request to lease 151 RPW to Gunster though the 3,233 SF exceeds TPB permitted use of 2,000 SF GLA
December 6, 1993	Plans/Specs	7034056	Design of foundation for satellite dish antenna
April 19, 1994	Plans and Specs, Certificate of Appropriateness	7035252 7035488 8000165	Renovations to Bank Building Approved by Landmarks

DATE	NATURE OF REQUEST/ACTIVITY	PROJECT IDENTIFIER OR NUMBER	COMMENT/NOTES
April 20, 1994	Certificate of Appropriateness	COA13-94	Widening of east elevation entrance at Trust Department, enhance it architecturally, and make ADA accessible. Also restoring colonnade and adding doors
April 21, 1994	Scope of Work	7034730	Scope of work for the repair of roof
July 1, 1994	Plans/Specs	7035294	AC Stands Repair Plans
September 14, 1994		5066706 7035488	
October 2, 1994	Plans/Specs	10940	Awning Plan Approved by Landmarks
November 3, 1994	Building Permits	B-94-036117	Exterior wall repairs and painting
December 6, 1994		SE-3-95	Allow Edwards & Angell to occupy 9,000 SF, above the 2,000 SF limit
December 27, 1994	Plans/Specs	10976	Awning Plan Reviewed by Town of Palm Beach Building Department

DATE	NATURE OF REQUEST/ACTIVITY	PROJECT IDENTIFIER OR NUMBER	COMMENT/NOTES
January 24, 1995	Exterior Wall Plan	Permit #: 7036117	Submitted by Lewis & Associates. Reviewed by Town Building Inspector
April 11, 1995	Correspondence	7036645	Correspondence around roof plan
May 17, 1995	Reinforcing Handicapped Ramp - Plan Set	Permit #: 8000000	Submitted by Lewis & Associates. Reviewed by Town Building Inspector
June 23, 1995	Reroofing plan	Permit # 8001662	Reviewed by Town Building Department
August 19, 1995	Plans	8000165	Fire Sprinkler Plan
September 28, 1995	Fire Protection Hydraulics Plans	Permit #: 8003836	Reviewed by Town Plumbing Inspector
January 9, 1996	Tenant Build Out Plans & Specs		AC, Masonry Wall, Reviewed by Air Conditioning Inspector
March 13, 1996		8007000	Satellite dish Reviewed by Building Department
March 18, 1996	Specifications	8006944	Tile Specifications
October 4, 1996	Plans/Specs	8009849	Handrail assembly for parapet

DATE	NATURE OF REQUEST/ACTIVITY	PROJECT IDENTIFIER OR NUMBER	COMMENT/NOTES
December 6, 1996	Plans/Specs	8012644	Relocation of existing air handler to conference room. Change out of duct work to accommodate new ceiling. Reviewed by Air Conditioning Inspector
March 5, 1997		8014122	Fire Sprinklers Reviewed by Building Plans Examiner
June 3, 1997	Plans and Specs	8016508	Drainage for Site Reviewed by Building Plans Examiner
July 1, 1997	Plans/Specs	8016531	Reviewed by Air Conditioning Inspector
January 30, 1998	Plans/Specs	8021648	Wind Load Calculation Reviewed by Building Plans Examiner
June 9, 1998	Tenant Remodel Plans & Specs		Demolition, Sprinkler, Floor, Ceiling, Electrical, and Mechanical Plans. Reviewed by Building Plans
September 8, 1998	Correspondence	8027696	Above Ground Fuel Tank Registration Reviewed by TPB Building Plans Examiner

DATE	NATURE OF REQUEST/ACTIVITY	PROJECT IDENTIFIER OR NUMBER	COMMENT/NOTES
July 12, 1999	Plans and Specs	8033621	Fire Escape Stair Plans Reviewed by Fire Rescue Plans Examiner
September 24, 1999	General Correspondence from Gunster to demonstrate compliance with Town Serving requirement		
June 28, 2000	ARCOM Approval		Plan set from American Awning. Staff approved by ARCOM
October 30, 2001	Plans/Specs	8049514	Plans. Reviewed by Building Department
September 27, 2002	Plans/Specs	8057241	Reviewed by TPB Building Department
May 2, 2003	Plans/Specs	8062911	Window Repair Reviewed by TPB Building Department
March 1, 2004	Plans/Specs	80675344	Awnings Reviewed by Building Plans Examiner
March 21, 2005	Plans and Specs	8074989	General Maintenance Service Plan Reviewed by Fire Rescue Plans Examiner

DATE	NATURE OF REQUEST/ACTIVITY	PROJECT IDENTIFIER OR NUMBER	COMMENT/NOTES
July 12, 2005	Special Exception	SE-16-2005	Request to allow Wachovia to expand footprint from ~20,000 to ~22,000 SF. Approved by TC on 7/12/2005 conditioned on town serving affidavit
July 14, 2005	Plans/Specs	8079450	Door replacement Reviewed by TPB Plan Examiner
June 16, 2006		Permit #: 8089413	
October 27, 2006	Plans and Specs	8087289	Security Device Location Plan Reviewed by TPB Plan Examiner
March 27, 2007	Plans/Specs	8089471/72/74	Reviewed by TPB Plan Examiner
May 9, 2008	Survey	N/A	Boundary Survey for Site
November 7, 2008	Plans/Specs	8098841	Parking Lot Storm Drainage Improvements Reviewed and approved by Deevan Inc
February 11, 2009	Civil		South Parking Lot Drainage Improvements

DATE	NATURE OF REQUEST/ACTIVITY	PROJECT IDENTIFIER OR NUMBER	COMMENT/NOTES
April 8, 2009	Plans/Specs	02480-02485	Reviewed by TPB Plan Examiner
December 16, 2009	Plans/Specs	7917	2nd Floor Renovation Plans. Reviewed by TPB Plan Examiner
May 14, 2010	Special Exception	SE-13-2010	Request to delete Gunster's requirement to requirement to submit annual affidavit indicating percentage of clients served by office that are Town persons
August 23, 2010	Plans and Specs	12476	Doors and Windows Plan Approved by Landmarks
October 7, 2010	Special Exception Request	SE-21-2010	Special exception to allow the new entity of Wells Fargo to continue to operate as a bank at the site. Approved by P&Z
November 23, 2010	Plans and Specs	B-10-14193	Improvements Plan - demo, reflected ceiling, finish plan, lighting plan, lighting plan Reviewed by TPB Plan Examiner
January 27, 2011	Plans and Specs	B-11-19404	Wells Fargo Tenant Improvements Reviewed by TPB Plan Examiner

DATE	NATURE OF REQUEST/ACTIVITY	PROJECT IDENTIFIER OR NUMBER	COMMENT/NOTES
February 2, 2011	Survey	N/A	Boundary Survey for Site
February 14, 2011	Special Exception Request	SE-10-2011	Special exception to allow the new entity of Wells Fargo to continue to operate as a bank at the site. Conditionally approved by P&Z
February 23, 2011	Application for Certificate of Appropriateness	COA-001-2011	Request from WF to update Wachovia signage to Wells Fargo signage on buildings. Reviewed and granted by Landmarks
May 5, 2011	Correspondence from Town of Palm Beach Code Enforcement		Severe rust was noted at the First National Bank building and an order to repair the fire escape and electrical components was issued
October 12, 2011	Plans and Specs	B-11-20820	North Parking Lot Drainage Improvements
February 8, 2012	Tenant Improvements Plans and Specs		Renovation of existing building including demolition and construction along with installation of new finishes. Reviewed by TPB Plan Examiner
June 18, 2015	Special Exception Request	SE-23-2015	Special Exception to modify existing site plan to allow for renovating, demolishing, and reconstructing portions of Wells office building, drive-thru, and parking lot. Approved by P & Z

DATE	NATURE OF REQUEST/ACTIVITY	PROJECT IDENTIFIER OR NUMBER	COMMENT/NOTES
August 11, 2015	Special Exception	SE-23-2015	Duplicate
March 17, 2016	Tenant Improvements Plans and Specs		Installation of new ATM in existing drive thru island
March 17, 2016	Building Permits	B-16-55410	Building Permits for commercial new construction/addition
May 3, 2016	Plans	N/A	Entry Doors Approved by Landmarks
July 17, 2017	Plans	B-17-63561	Building Signage Approved by Landmarks
November 13, 2017	Application for Certificate of Appropriateness	COA-051-2017	Landscape Modification. Reviewed and approved by Landmarks
January 18, 2018	Plans/Specs	B-17-68997	Floor Patch- replacement of concrete section Reviewed by TPB Plan Examiner
March 14, 2018	Application for Certificate of Appropriateness	Z-18-00075 COA-012-2018	Request to update First National Bank signage on corner Volk building to Wells Fargo. Reviewed by Landmarks
May 16, 2018	Application for Certificate of Appropriateness	COA-024-2018	Landscape modification

DATE	NATURE OF REQUEST/ACTIVITY	PROJECT IDENTIFIER OR NUMBER	COMMENT/NOTES
June 29, 2018	Plans	L-18-00013	Planting Plan Approved by Landmarks
August 1, 2018	Plans/Specs	B-18-74516	Signage for black-painted, thick plate letters for Wells Fargo Building sign on corner building. Reviewed by TPB Plan Examiner
August 16, 2018	Plans	B-18-74516	Wells Fargo Building Signage Approved by Landmarks
October 9, 2018	Plans/Specs	B-18-75748	Interior Door Replacement
December 11, 2018	Plans/Specs	B-18-76517	Window glazing plans and specs. Review by PB Plan Examiner
February 5, 2019	Photos	N/A	Window Photos Marked Rec'd by PZB
December 7, 2020	Plans/Specs	B-20-86616	Signage proposal for non-illuminated wall plaque. Approved by TPB PZB Dept
December 7, 2020	Plans, Photos, Correspondence	L-20-00346	Signage Approved by Landmarks
November 16, 2021	ARCOM Approval	Permit #: B-09-05850	ARCOM approval of various improvements at the property including railing, roofing, windows, etc.

LIST OF EXHIBITS

EXHIBIT A:	SUBJECT PROPERTY SURVEY & LEGAL DESCRIPTION
EXHIBIT B:	TOWN OF PALM BEACH EXISTING FUTURE LAND USE MAP
EXHIBIT C:	TOWN OF PALM BEACH EXISTING ZONING DISTRICTS DIAGRAM AND APPLICABLE ZONING CODE SECTIONS
EXHIBIT D:	TOWN OF PALM BEACH LANDMARKED BUILDINGS DIAGRAM
EXHIBIT E:	TOWN OF PALM BEACH COMPREHENSIVE PLAN FUTURE LAND USE MAP DIAGRAM
EXHIBIT F:	TOWN OF PALM BEACH COMPREHENSIVE PLAN FUTURE LAND USE ELEMENT
EXHIBIT G:	TOWN OF PALM BEACH OFFICIAL ZONING MAP
EXHIBIT H:	TOWN OF PALM ZONING CODE ARTICLE V: PLANNED DEVELOPMENT
EXHIBIT I:	PUD-5 CODE + REGULATING PLAN
EXHIBIT J:	TOWN OF PALM BEACH MUNICIPAL CODE, CHAPTER 54 HISTORICAL PRESERVATION
EXHIBIT K:	TOWN OF PALM BEACH COMPREHENSIVE PLAN TRANSPORTATION ELEMENT
EXHIBIT L:	TOWN OF PALM BEACH COMPREHENSIVE PLAN HISTORIC PRESERVATION ELEMENT
EXHIBIT M:	CONCURRENCY MANAGEMENT: TRAFFIC & SCHOOL
EXHIBIT N:	EAST PLAZA PLAT
EXHIBIT O:	EAST PLAZA PRESERVATION PLAN SITE PLAN
EXHIBIT P:	EAST PLAZA PRESERVATION PLAN CONCEPTUAL ARCHITECTURE, LANDSCAPE ARCHITECTURE, AND CIVIL PLAN SET
EXHIBIT Q:	THE SECRETARY OF THE INTERIOR'S STANDARDS FOR THE TREATMENT OF HISTORIC PROPERTIES:

**REHABILITATION AS A TREATMENT AND STANDARDS FOR
REHABILITATION**

EXHIBIT R:	TRANSPORTATION STUDIES
EXHIBIT S:	PROPOSED PUD-5 ORDINANCE: COMPREHENSIVE PLAN
EXHIBIT T:	PROPOSED PUD-5 ORDINANCE: ZONING ORDINANCE
EXHIBIT U:	LANDMARKS PRESERVATION COMMISSION DESIGNATION REPORT + ORDINANCE
EXHIBIT V:	CONCEPTUAL DRAINAGE PLAN
EXHIBIT W:	OWNER'S LETTER OF AGENCY
EXHIBIT X:	TAX RADIUS MAP
EXHIBIT Y:	LIST OF PROPERTY OWNERS
EXHIBIT Z:	USPS CERTIFICATE OF MAILING

EXHIBIT A: SUBJECT PROPERTY SURVEY & LEGAL DESCRIPTION

TOWN OF PALM BEACH

Town Council Meeting on: January 9, 2024

Section of Agenda

Ordinances - Second Reading

Agenda Title

Proposed Ordinance to Amend Chapter 46 of the Town Code Relative to Fire Prevention and Protection

ORDINANCE NO. 023-2023 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 46, Fire Prevention and Protection in Accordance with Florida Statute 633.202 and 633.208 the “Florida Fire Prevention Code” Adopted by the State of Florida Fire Marshall In Chapter 69A-60 Of the Florida Administrative Code with Local Amendments, National Fire Protection Association National Fire Code – N.F.P.A. 1, Florida Current Edition; And National Fire Protection Association Life Safety Code - N.F.P.A. 01, Florida Current Edition; Including Amendments To Sections 46-32, 46-33, 46-36, 46-66, 46-68, 46-69, 46-70, 46-71, 46-72, 46-73, 46-74, 46-75, 46-76, 46-77, 46-78, 46-80, And 46-82 All As Provided In Exhibit A Attached; Providing For Severability; Repealing All Ordinances Or Parts Of Ordinances In Conflict Herewith; Providing For Codification; And Providing For An Effective Date.

Presenter

Darrel Donatto, Fire Rescue Chief

ATTACHMENTS:

- ▣ **Ordinance No. 023-2023**
- ▣ **Exhibit "A"**

ORDINANCE NO. 023-2023

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 46, FIRE PREVENTION AND PROTECTION IN ACCORDANCE WITH FLORIDA STATUTE 633.202 AND 633.208 THE “FLORIDA FIRE PREVENTION CODE” ADOPTED BY THE STATE OF FLORIDA FIRE MARSHAL IN CHAPTER 69A-60 OF THE FLORIDA ADMINISTRATIVE CODE WITH LOCAL AMENDMENTS, NATIONAL FIRE PROTECTION ASSOCIATION NATIONAL FIRE CODE – N.F.P.A. 1, FLORIDA CURRENT EDITION; AND NATIONAL FIRE PROTECTION ASSOCIATION LIFE SAFETY CODE - N.F.P.A. 01, FLORIDA CURRENT EDITION; INCLUDING AMENDMENTS TO SECTIONS 46-32, 46-33, 46-36, 46-66, 46-68, 46-69, 46-70, 46-71, 46-72, 46-73, 46-74, 46-75, 46-76, 46-77, 46-78, 46-80, AND 46-82 ALL AS PROVIDED IN EXHIBIT A ATTACHED; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, it is necessary that Chapter 46, Fire Prevention and Protection be amended to maintain the three year cycle mandated by the State of Florida in Chapter 633.202 and 633.208, Florida Statutes, requiring local governments to enforce statewide Florida Administrative Code Chapter 69A-60, the Florida Fire Prevention Code, as adopted by the State of Florida Fire Marshal, with Local Amendments, as the minimum Fire Safety Code, including NFPA 1, the Fire Code, Florida Current Edition and NFPA 101, the Life Safety Code, Florida Current Edition; and

WHEREAS, these amendments will give the Fire Rescue Department the necessary tools to enforce fire, life and safety issues within the Town of Palm Beach;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

Section 1. Chapter 46 of the Town Code of Ordinances relating to Fire Prevention and Protection is hereby amended at Sections 46-32, 46-33, 46-36, 46-66, 46-68, 46-69, 46-70, 46-71, 46-72, 46-73, 46-74, 46-75, 46-76, 46-77, 46-78, 46-80, and 46-82 all as provided in the attached Exhibit A.

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 14th day of November, 2023, and for second and final reading on this 9th day of January, 2024.

Danielle H. Moore, Mayor

Margaret A. Zeidman, Town Council President

Bobbie Lindsay, Council President Pro Tem

Julie Araskog, Town Council Member

ATTEST:

Edward A. Cooney, Town Council Member

Kelly Churney, Acting Town Clerk

Lewis S.W. Crampton, Town Council Member

Chapter 46 FIRE PREVENTION AND PROTECTION¹

ARTICLE I. IN GENERAL

Secs. 46-1—46-30. Reserved.

ARTICLE II. FIRE-RESCUE DEPARTMENT²

Sec. 46-31. Position of chief established.

There is hereby established the position of chief of the fire-rescue department, who shall be an appointive administrative official within the meaning of section 4.04(a) of the Charter, to be appointed by and serve at the will of the town council upon the recommendation of the town manager.

(Code 1982, § 7-1)

Sec. 46-32. Composition of department; other personnel.

The fire-rescue department is created and shall be composed of the chief of the department and such other personnel and employees as may be appointed thereto in accordance with section 4.04(b) of the Charter. The fire-rescue chief shall have the authority to recommend to the town manager the appointment of such fire-rescue personnel and subordinate officers of the department as he deems in the best interest of the town.

(Code 1982, § 7-2)

Sec. 46-33. General supervision of department by chief.

The chief of the fire-rescue department shall have control and supervision of all the matters relating to the fire-rescue department, under the supervision of the town manager. The Fire Chief shall have the custody and control of all apparatus, machinery or other paraphernalia of the fire-rescue department, and shall have power to use and cause to be put in service all or any part of the apparatus belonging to the fire-rescue department. The chief of the fire-rescue department, or their designee, shall be the Authority Having Jurisdiction (AHJ) for the purposes of all matters related to application and enforcement of the fire code.

(Code 1982, § 7-3)

¹Cross reference(s)—Buildings and building regulations, ch. 18; smoke detectors, § 18-371; emergency services, ch. 38; fires on public beaches, § 74-199.

²Cross reference(s)—Officers and employees, § 2-136 et seq.

Sec. 46-34. Regulations governing department.

It shall be the duty of the chief of the fire-rescue department, with the approval of the town manager and the town council, to make and promulgate rules and regulations governing the conduct and duties of the officers and employees of the fire-rescue department, including penalties for the violation of such rules and regulations; and such rules and regulations shall have all the authority and force of law.

(Code 1982, § 7-4)

Sec. 46-35. Authority to destroy buildings to prevent spread of fire.

If the officer of the fire-rescue department in command at a fire scene shall deem it necessary to pull down, blow up or destroy any building to arrest the fire, such building shall be removed or destroyed as the officer shall direct.

(Code 1982, § 7-6)

Sec. 46-36 Duties and Powers of the Incident Commander.

- (a) Authority - The incident commander conducting operations in connection with the extinguishment and control of any fire, explosion, hazardous materials incident, natural disaster, rescue, and/or other emergency shall have authority to direct all operations of fire extinguishment, mitigation of a hazardous materials incident, natural disaster, rescue, and/or control and to take necessary precautions to save life, protect property, and prevent further injury or damage.
- (b) Controlling Scene - During any emergency described in 46.36a, including the investigation of the cause of such emergency, the incident commander or authorized representative shall be permitted to control or prohibit the approach to the scene of such emergency by any vehicle, vessel, or person.
- (c) Obstruction of Operations - Persons shall not obstruct the operations of the fire department or disobey any command of the incident commander or authorized representative or any part thereof, or any order of a police officer assisting the fire department.
- (d) Scene Barrier - The incident commander or authorized representative in charge of an emergency scene shall have the authority to establish barriers to control access in the vicinity of such emergency and to place, or cause to be placed, ropes, guards, barricades, or other obstructions across any street or alley to delineate such emergency scene barrier. Persons, except as authorized by the incident commander in charge of the emergency, shall not be permitted to cross barriers established in this section.

Secs. 46-37—46-65. Reserved.

ARTICLE III. FIRE PREVENTION CODE

Sec. 46-66. Codes adopted; copies on file.

- (a) There are hereby adopted by the town, for the purpose of prescribing regulations governing conditions hazardous to the health, safety, welfare, life and property from fire or explosion, certain codes in accordance with F.S. §§ 633.202 and 633.208 the "Florida Fire Prevention Code" adopted by the State Fire Marshal Chapter 69A-60 of the Florida Administrative Code, as may be amended, including N.F.P.A. 1 Fire Code, Florida Edition, and the N.F.P.A. 101 Life Safety Code, Florida Edition, both as modified by Chapter 69A-60 of the Florida Administrative Code, all of which are deemed adopted by reference, as fully as if set out at length herein, as the minimum fire safety code. If conflicts exist between the codes, the more stringent shall be applied at the discretion of the fire chief or his or her representatives.
- (b) A copy of each of the above codes is on file and open to inspection by the public in the office of the town clerk.

(Code 1982, § 7-17; Ord. No. 24-95, § 2, 11-14-95; Ord. No. 13-98, § 1, 10-13-98; Ord. No. 12-01, § 1, 6-12-01; Ord. No. 28-04, § 1, 1-11-05; Ord. No. 28-08, § 1, 11-12-08; Ord. No. 33-2011, § 1, 1-10-12; Ord. No. 16-2014, § 1, 11-13-14; Ord. No. 32-2017, § 1, 12-12-17; Ord. No. 17-2020, § 1, 12-8-20)

Sec. 46-67. Permits.

All permits required pursuant to the provisions of section 46-66 will be issued by the chief of the fire-rescue department or the chief's designee. Applications for permits shall be made through an application process as determined by the town. The permit application will include all information required by the town. Applications shall be accompanied by a fee which shall be in accordance with the schedule of fees adopted by resolution by the town council and amended in the same manner.

(Code 1982, § 7-26; Ord. No. 24-95, § 2, 11-14-95; Ord. No. 13-98, § 2, 10-13-98; Ord. No. 12-01, § 2, 6-12-01; Ord. No. 28-04, § 2, 1-11-05; Ord. No. 13-05, § 1, 9-13-05; Ord. No. 24-08, § 1, 10-13-08; Ord. No. 011-2022, § 1, 7-12-22)

Sec. 46-68. Fire and life safety inspections.

- (a) Unless otherwise provided by law, the fire marshal or their designees shall conduct a fire safety inspection of all multifamily and commercial premises operating within the town, excluding one and two family dwellings, on at least an annual basis.
- (b) Buildings Under Construction. All new buildings shall be inspected to ensure compliance with this Code. The permit holder or his agent shall notify the AHJ to conduct the following inspections of buildings and such other inspections as may be necessary. The AHJ shall either approve that portion of the construction or shall notify the permit holder or his agent of any correction to be made to comply with this Code.
 - a. Frame Inspection: To be made at the time of Building Department inspection. Items to be inspected shall include, but not be limited to:
 - i. Fire hydrant locations
 - ii. Fire Department access
 - iii. Rough-ins for stair dimensions
 - iv. Egress windows
 - v. Smoke detector locations and

- vi. Fire alarm device locations.
 - b. Fire Protection Systems: To be inspected and tested upon completion of that system or portion of system prior to final fire safety inspection.
 - c. Final Fire Safety Inspection: To be made upon completion of the building and all installed systems.
 - d. Certificate of Occupancy. Once all provisions of the Florida Fire Prevention Code have been met, a letter of Fire Code Compliance shall be issued by the Authority Having Jurisdiction (AHJ) to the Building Official prior to the Building Official issuing a Certificate of Occupancy for the premises for which the building permit had been issued. The Certificate of Occupancy shall not be issued until approved by the AHJ for fire code enforcement.
- (c) Pursuant to subsection 46-66 of this article, all new occupancies, new buildings or structures, building renovations or additions, site improvements, or building alterations requiring fire department inspection services or fire plan review shall be subject to a fee which shall be paid at the time of construction permit issuance and in accordance with a schedule established by resolution of the town council.
 - (d) Pursuant to subsection 46-66 of this article, all multifamily and commercial premises requiring an annual fire safety inspection shall be subject to a fee which shall be paid at the time of business tax receipt issuance or renewal in accordance with a schedule established by resolution of the town council. Premises requiring an annual fire safety inspection that do not pay a business tax receipt fee shall be invoiced.
 - (e) A re-inspection fee may be charged due to violations, incompleteness, lack of accessibility or deviation from approved plans. Following the initial inspection, one re-inspection for compliance will be included in the original fee. If additional re-inspections are necessary due to the above criteria, re-inspection fees may be required in accordance with a schedule established by resolution of the town council.
- (Code 1982, § 7-18; Ord. No. 13-05, § 2, 9-13-05; Ord. No. 24-08, § 1, 10-13-08; Ord. No. 011-2022, § 1, 7-12-22)

Sec. 46-69. Ordering correction of hazards; compliance required; appeal.

- (a) Whenever the chief of the fire-rescue department or their designee shall find on any building or upon any premises, or in any public place, violations of the currently adopted fire codes by the Town of Palm Beach, combustible or explosive material or dangerous accumulation or rubbish or unnecessary accumulation of wastepaper, boxes, shavings or other highly combustible materials especially liable to fire, and which are so situated as to endanger property, or shall find obstructions to or on fire escapes, stairs, passageways, doors, or windows liable to interfere with the operation of fire-rescue or the egress of occupants in case of fire, the chief, or their designee, shall order same to be removed or remedied. Such order shall be forthwith complied with by the owner or occupant of such place or building. If such remedy shall require an alteration of the structure of such buildings or place, the owner or occupant may appeal that order pursuant to this section to the board of adjustments and appeals.
- (b) The board of adjustments and appeals shall within 90 days review such order and file its decision thereon; and unless the order is revoked or modified, it shall remain in full force and be obeyed by such owner or occupant. The board of adjustments and appeals must find the appeal remedy equal to or greater than the code requirement. Further appeal would be to the town council.

(Code 1982, § 7-19; Ord. No. 24-95, § 2, 11-14-95; Ord. No. 13-98, § 2, 10-13-98; Ord. No. 12-01, § 2, 6-12-01; Ord. No. 28-04, § 2, 1-11-05; Ord. No. 18-2011, § 1, 9-13-11)

Sec. 46-70. Form, service of order.

The order provided for in section 46-69 shall be by email or in writing and signed by the person making such inspection and shall state specifically the conditions to be remedied. Service of such order shall be made upon the occupant of the premises to whom it is directed by either delivering an email, or delivering a true copy of same to such occupant personally, or by delivering the same to and leaving it with any person in charge of the premises or in case no such person is found upon the premises, by affixing a copy thereof in a conspicuous place on the door to the entrance of the premises. Whenever the owner of the premises, building or structure is responsible for the condition that is required to be remedied, or is otherwise liable therefor, the order shall be served upon such owner, or their agent by email, or delivering to and leaving with the person a true copy thereof, or if such owner is absent from the jurisdiction of the town by emailing, or mailing such copy to the owner's last known address, or if they shall have a business agent resident in the town by delivering a true copy of such order to such business agent.

(Code 1982, § 7-20)

Sec. 46-71. Owner responsible for vacant premises.

The duties imposed upon occupants of buildings and premises by this article, including the requirements for annual fire inspections, are imposed upon the owners of such buildings and premises when such buildings and premises are vacant. Every person owning or having charge or control of any vacant building or premises shall remove all combustible storage, waste, refuse and vegetation and shall lock, barricade or otherwise secure all windows, doors and other openings to prohibit entry by unauthorized persons. All fire protection systems shall be maintained and in service in vacant buildings. The fire-rescue chief, or their designee, may make an exception if the building has limited use of utilities or the construction is fire-resistant and void of any combustible materials. Violation of this section shall be subject to the penalty for a Class III violation as set forth in section 2-439 of this Code.

(Code 1982, § 7-21; Ord. No. 18-2011, § 2, 9-13-11)

Sec. 46-72. Property manager required for certain buildings.

For every building in the town having a public assembly occupancy capacity of more than 500 persons, and for every building four or more stories in height, there shall be provided by the owner or owners a person who shall be designated as the property manager of the building. The property manager shall be qualified to hold this position by virtue of sufficient knowledge and experience so as to be in responsible charge in a competent manner of the property at all times the building is occupied. They shall ensure that all types of mechanical and electrical equipment in use in the building and any fire safety equipment and fire stair or passageway installed in the building shall be in a proper state of maintenance and repair so as to secure the building and the occupants thereof. The name, address and telephone number of each property manager representing each building as provided in this section must be kept on file at the town fire-rescue department. The property owner shall notify the fire-rescue, in writing, whenever there is a change of property manager. The fire-rescue chief may cause any such buildings as set out herein to be immediately closed and vacated if there is not a currently appointed property manager actively engaged in the proper maintenance and operation of said building.

(Code 1982, § 7-22)

Sec. 46-73. Accumulations endangering adjacent premises.

Any accumulation of wood, fuel, lumber, poles, shingles or other combustible material outside of a building shall be subject to removal or relocation upon order of the chief of the fire-rescue department, or their designee, whenever in their opinion the quantity or position of the same shall increase the danger of fire to adjacent property.

(Code 1982, § 7-23)

Sec. 46-74. Open burning.

It shall be unlawful for any person to kindle a fire on any lot, street, alley, park or other public or private place, except in devices designed for heating, cooking or approved by permit application review process. Outdoor fire pits or any fire that is not for cooking, heating or approved by permit application shall obtain a bonfire permit from the Town of Palm Beach Fire Rescue Department. All devices designed for outdoor use shall be operated no closer than five feet from any building or combustible material and shall not be operated on any balcony or roof, unless approved by building permit application review. Violation of this section shall be subject to the penalty for a Class III violation as set forth in section 2-439 of this Code.

(Code 1982, § 7-24; Ord. No. 18-2011, § 3, 9-13-11)

Sec. 46-75. Exit doors and means of egress.

Any person, business or organization found guilty of violating those sections of the currently adopted fire codes by the Town of Palm Beach or the Life Safety Code (NFPA 101), relative to illegally locking exits or blocking means of egress, shall be subject to the penalty for a Class III violation as set forth in section 2-439 of this Code.

(Code 1982, § 7-25; Ord. No. 18-2011, § 4, 9-13-11)

Sec. 46-76. Processes deemed hazardous to life and property.

- (a) The chief of the fire-rescue department, or their designated representative, may order the immediate cessation of any activity, operation or process when such activity, operation or process is in violation of the fire prevention code, or other safety ordinance, or when in the judgment of the chief of the fire-rescue department, or their designated representative, such operation, activity or process constitutes a severe and immediate hazard to persons or property.
- (b) Any person who, after being served with either a verbal or written order to cease such severe and immediate hazardous activity, operation, or process, willfully fails or refuses to comply with such an order shall be subject to immediate arrest.

(Ord. No. 4-98, § 1(7-27), 3-10-98)

Sec. 46-77. Evacuation of occupied buildings or structures.

The chief of the fire-rescue department, or their designated representative, may order the immediate evacuation of any occupied building or structure or assembly area when such building, structure or assembly area is deemed hazardous due to fire hazard, obstruction to exits, overcrowding of the premises, or any other hazard or potential which presents immediate danger to the occupants. The premises, or any portion thereof, may not be reoccupied until it has been examined and deemed free of the hazard or potential which caused the evacuation to

be ordered. Persons refusing to obey either a verbal or written order of any of the chief of the fire-rescue department or their designated representative shall be subject to immediate arrest.

(Ord. No. 4-98, § 1(7-28), 3-10-98)

Sec. 46-78. Fire alarm systems.

All buildings that have or are required to have fire alarm systems will with the exception of one- and two-family dwellings have such fire alarm systems monitored by a central receiving station in compliance with NFPA 72. For all newly installed fire alarm systems or existing systems that are undergoing renovations/alterations, when the fire department is required to be notified, such notification shall be accomplished through central station monitoring, which shall be listed for central station services, per NFPA 72. The central station shall be certified by an approved certificated nationally recognized testing laboratory.

(Ord. No. 24-95, § 1, 11-14-95)

Cross reference(s)—Alarm systems generally, § 38-31 et seq.

Sec. 46-79. Fireworks.

(a) *Manufacturing, storage, sale and use unlawful.* It shall be unlawful for any person, firm, partnership, corporation or entity to store, manufacture, display, discharge, explode or use any fireworks or pyrotechnic materials within the town except upon permit granted by the town in accordance with the provisions of this Code.

(b) *Definitions.*

Fireworks shall mean and include any combustible or explosive composition or any substance or combination of substances or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation as defined by F.S. ch. 791.

Pyrotechnic materials shall include, but are not limited to, chemical mixtures used in the entertainment industry to produce visible, audible or thermal effects by combustion, deflagration or detonation; flame effects and/or similar devices not limited to batons or torches fueled by liquid, solid or gaseous fuels; flame projectors which produce heat effects and/or flames; flash powders composed of fuels and oxidizers; flares and similar devices.

(c) *Permit required.* Any person, firm, partnership, corporation or entity which wishes to display fireworks or use pyrotechnics within the town may do so only upon application approved by the fire chief or the fire chief's designee. Applications shall be made at least 30 days in advance of the date of the display requested on an application form provided by the town. No firework displays shall be permitted in the town other than on approved offshore barges, floating vessels or floating platforms located a minimum of 300 feet from the nearest dwelling, building or structure. Permits shall be issued for firework displays only between the hours of 6:30 p.m. and 9:30 p.m., except on December 31, January 1 and July 4, when said times may be extended if authorized. Displays of fireworks and the use of pyrotechnics, in order to be permitted, shall comply with all rules and regulations promulgated by the town through its fire chief or the fire chief's designee from time to time, including, but not limited to, NFPA 1123 for fireworks and NFPA 1126 for pyrotechnics. No fireworks or pyrotechnic displays shall be permitted which are determined to be unsafe in the sole discretion of the fire chief or the fire chief's designee.

In addition, before any permit for fireworks or pyrotechnics display shall be issued, the following shall be provided:

- (1) A \$1,000.00 nonrefundable fee is required at time of application for a permit. Permits shall be nontransferable. (This application fee may be modified by resolution of the town council from time to time.)
- (2) A performance bond or similar security acceptable to the town naming the town as beneficiary in the sum of \$5,000.00 to cover any costs incurred by the town as a result of the display, which costs are not otherwise reimbursed by applicant. The amount of this bond may be increased at the discretion of the fire chief or the fire chief's designee upon a determination that a greater amount is required as a result of the nature and size of the event.
- (3) Proof of financial responsibility to satisfy claims for damages to property or personal injuries arising out of any act or omission on the part of such person or any agent or employee of the applicant in such amount, character and form as the fire chief or the fire chief's designee determines to be necessary for the protection of the public.
- (4) General liability insurance coverage with limits of liability no less than \$5,000,000.00 per occurrence. Said insurance policy shall be issued by a company authorized to do business under the laws of the state. A copy of the certificate of insurance endorsing the town as additional insured under the general liability policy is required.
- (5) A sufficient amount of money to compensate the town for any and all town fire-rescue apparatus and personnel deemed necessary by the fire chief or the fire chief's designee required to standby and oversee the event to insure public safety.
- (6) An acknowledgment that the applicant will abide by all rules and regulations promulgated by the fire chief or the fire chief's designee relating to the display.
- (7) Applications shall include, but not be limited to the following information:
 - a. The name, address and telephone number of the organization sponsoring the display, the supplier of the fireworks, the operator (pyrotechnician) and all assistants.
 - b. Copy of valid driver's license or other valid photo identification for all operators and assistants. Operators to be at least 21 years of age, assistants to be at least 18 years of age.
 - c. For barge displays, a current United States Coast Guard permit or operation shall be supplied along with any FAA approvals required to proceed with the event.
 - d. References for the three most recent firework displays of the operator.
 - e. The date and time of day at which the display is to be held and the duration of time for such display.
 - f. The exact location for the display, event or production.
 - g. A copy of a location site plan with the dimensions indicating the exact location planned for the display site and all grounds and facilities at which the event will be held.
 - h. The size, type and description of displays of fireworks and/or pyrotechnics. The type and number of fireworks to be displayed, including for aerial displays the size and number of each type of burst; and the manner and place of storage of fireworks in the town prior to the display. Only aerial displays which are ignited electronically will be allowed.
 - i. Signature of the sponsoring organization representative, and operator (pyrotechnician).

(Code 1982, § 13-22; Ord. No. 4-05, § 1, 6-14-05)

State law reference(s)—Sale, use of fireworks, F.S. ch. 791.

Sec. 46-80. Sprinklers.

- (a) Approved automatic sprinkler systems meeting the requirements of NFPA 13, NFPA 13D, or NFPA 13R, as applicable, shall be installed in all new commercial and multi-family (three or more units) buildings.
- (b) Approved automatic sprinkler systems meeting the requirements of NFPA 13, NFPA 13D, or NFPA 13R, as applicable, shall be installed in all new one- and two-family dwelling structures totaling 10,000 square feet or greater (enclosed area).
- (c) Approved automatic sprinkler systems meeting the requirements of NFPA 13, NFPA 13D, or NFPA 13R, as applicable, shall be installed in all existing commercial and multifamily (three or more units) buildings that undergo Extensive Modifications, Reconstruction as defined in NFPA 101, chapter 43; or that undergoing expansion or addition that increases the existing total gross floor area to more than 10,000 square feet or greater (enclosed area) or that undergo a Level III Alteration as defined in the Florida Building Code; or that undergo a change in occupancy as defined in NFPA 101.
- (d) Approved automatic sprinkler systems meeting the requirements of NFPA 13, NFPA 13D, or NFPA 13R, as applicable, shall be installed in all existing one and two family dwelling structures totaling 10,000 square feet or greater (enclosed area) that undergo Extensive Modifications, Reconstruction as defined in NFPA 101, Chapter 43; or that undergo a Level III Alteration as defined in the Florida Building Code; or that undergoing expansion or addition that increases the existing total gross floor area to more than 10,000 square feet or greater (enclosed area); or that undergo a change in occupancy as defined in NFPA 101.
- (e) Definitions:

Enclosed Area: All space between a floor and a ceiling that has thirty-three percent or more of the surface area of its perimeter bounded by opened or closed walls, windows or doorways. A wall includes any physical barrier regardless of whether it is open or closed, temporary or permanent, or contains openings of any kind, and includes retractable dividers and garage doors.

(Ord. No. 6-02, § 1, 2-19-02)

Sec. 46-81. Fire district.

- (a) Scope. For the purpose of this Code, there shall be established a fire district or zone which shall be known as the fire district. The fire district shall consist of all land classified as R-C, R-D(1), R-D(2), C-TS, C-WA, C-OPI, C-PC, C-B all PUD districts as found in the town zoning code (chapter 134, town Code of Ordinances) and any social club or similar use in any residential zoning district.
- (b) All buildings in the fire district (except group R-3 occupancy, type III heavy timber construction or sprinkled throughout), shall have all bearing walls, floors, roofs and their supporting structural members provide not less than one-hour fire resistance.

(Ord. No. 6-02, § 1, 2-19-02)

Sec. 46-82. Access to Gated Properties.

Where fire department access to a property or building is provided through one or more gate(s), that are not manned 24/7/365, a Click2Enter "C2E" system shall be installed as the primary access system for fire rescue entry into the property and a key switch system shall be installed as a secondary access system. These systems shall simultaneously open all gates and/or traffic arms that are in the fire department vehicle access lane. The gates

and/or traffic arms shall remain open until restored to the normal position by the fire department. If at any time the primary or secondary access system is not functioning, the gate(s)/traffic arm(s) shall be left in the open position until such time they are repaired.

Secs. 46-82—46-110. Reserved.

ARTICLE IV. HAZARDOUS SUBSTANCES AND HAZARDOUS WASTE³

DIVISION 1. GENERALLY

Secs. 46-111—46-140. Reserved.

DIVISION 2. ABATEMENT AND RECOVERY OF COSTS⁴

Sec. 46-141. Definitions.

Emergency action shall mean all of the activities conducted in order to prevent or mitigate injury to human health or to the environment from a release or threatened release of any material into or upon the environment.

Hazardous substance or hazardous waste means any substance or material in a quantity or form which, in the determination of the fire-rescue chief or his authorized designee, poses an unreasonable and imminent risk to the life, health, safety or welfare of persons or property within the town, including but not limited to those substances listed in the National Fire Protection Association's "Guide to Hazardous Materials"; the EPA's list of "Extremely Hazardous Substances"; or the "Florida Substance List" promulgated by the state department of labor and security, or by C.R.C.L.A. in 40 CFA 300.6.

Recoverable expenses, in general, are those expenses that are reasonable, necessary and allocable to the emergency action. Recoverable expenses shall not include normal expenditures that are incurred in the course of providing what are traditionally local services and responsibilities, such as routine firefighting. Expenses allowable for recovery may include, but are not limited to:

- (1) Disposable materials and supplies acquired, consumed and expended specifically for the purpose of the emergency action including, but not limited to, firefighting foam, chemical extinguishing agents, absorbent materials, sand, recovery drums, chemical protective clothing, gloves and testing equipment.
- (2) Compensation of employees for the time and efforts devoted specifically to the emergency action.
- (3) Operation or rental of equipment used specifically for the emergency action.

³Cross reference(s)—Environment, ch. 42.

State law reference(s)—Hazardous substance law, F.S. § 501.061 et seq.

⁴Cross reference(s)—Finance, § 2-471 et seq.

- (4) Replacement costs for equipment owned by the town that is contaminated beyond reuse or repair if the equipment was a total loss and the loss occurred during the emergency action.
- (5) Decontamination of equipment contaminated during the response.
- (6) Special technical services specifically required for the response.
- (7) Other special services specifically required for the emergency action.
- (8) Costs to prevent or minimize mitigation off the site, as well as costs for any actions the town may take in this regard out of the town's jurisdiction or off the site.
- (9) Laboratory costs of analyzing samples taken during the emergency action.
- (10) Costs of cleanup, storage or disposal of the released material.
- (11) Costs associated with the services, supplies and equipment procured for a specific evacuation.
- (12) Medical expenses incurred as a result of the response activities.
- (13) Legal expenses that may be incurred as a result of the emergency action, including efforts to recover expenses pursuant to this division.

Release shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into or upon the environment, which causes danger or harm to the public health or to the environment, including, but not limited to, the release of any material classified as hazardous material by any federal legislation or regulation, by any state legislation or regulation or by any town ordinance.

Threatened release shall mean any imminent or impending event potentially causing but not resulting in a release but causing the town to undertake an emergency action.

(Code 1982, § 7-27(a); Ord. No. 19-08, § 1, 7-8-08)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 46-142. Authority to initiate action.

The fire-rescue department is authorized to take or cause to be taken such steps as may be necessary to clean up, remove, or abate the release or threatened release of any hazardous substance or hazardous waste upon or into public or private property or facilities located within the corporate limits of the town and any actions associated herewith which occur off the site designed to mitigate the release or threatened release of a hazardous substance or hazardous waste.

(Code 1982, § 7-27(b)(1); Ord. No. 19-08, § 1, 7-8-08)

Sec. 46-143. Liability for costs of abatement of discharge.

- (a) Any and all persons causing or contributing to the causing of a release or threatened release of hazardous substances or hazardous waste which results in an emergency action by the fire-rescue department of the town or its authorized agents in order to protect the health, safety or welfare, shall be strictly liable both jointly and severally to the town for the recoverable expenses resulting from the emergency action. This shall be in addition to any and all penalties provided by law.
- (b) When responding to an emergency action, the fire-rescue department shall keep a detailed record of the recoverable expense attributable thereto.

(Code 1982, § 7-27(b)(2)—(4); Ord. No. 19-08, § 1, 7-8-08)

Sec. 46-144. Recovery of costs of hazardous substance and hazardous waste cleanup.

- (a) Any and all persons causing or contributing to the causing of a release or threatened release of hazardous substances or hazardous waste which results in an emergency action shall reimburse the town for the full amount of the recoverable expenses resulting from the emergency action within a period of 30 days after receipt of an itemized bill for such recoverable expenses from the town.
- (b) Any and all persons causing or contributing to the causing of a release or threatened release of hazardous substances or hazardous waste which results in an emergency action who fails to reimburse the town within the time set forth in subsection (a) shall be subject to a surcharge equal to \$100.00 per day or ten percent of the total amount of the bill, whichever is greater, for each additional day that the bill for such recoverable expenses remains unpaid.

(Code 1982, § 7-27(c); Ord. No. 19-08, § 1, 7-8-08)

TOWN OF PALM BEACH

Town Council Meeting on: January 9, 2024

Section of Agenda

Ordinances - Second Reading

Agenda Title

Proposed Ordinance to Amend the Town's Equipment Replacement Fund

ORDINANCE NO. 027-2023 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Providing for an Amendment to the Town's Equipment Replacement Fund Adopted for the Fiscal Year Commencing October 1, 2023, and Providing an Effective Date.

Presenter

Bob Miracle, Deputy Town Manager - Finance and Administration

ATTACHMENTS:

- ▣ **Ordinance No. 027-2023**
- ▣ **Exhibit "A"**

ORDINANCE NO. 027-2023

**AN ORDINANCE OF THE TOWN COUNCIL OF THE
TOWN OF PALM BEACH, PALM BEACH COUNTY,
FLORIDA, PROVIDING FOR AN AMENDMENT TO THE
TOWN'S EQUIPMENT REPLACEMENT FUND ADOPTED
FOR THE FISCAL YEAR COMMENCING OCTOBER 1,
2023, AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, it was necessary for the Town of Palm Beach to adopt budgets for the fiscal year commencing October 1, 2023; 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, 2023; and

WHEREAS, the budget amendment is necessary for the Equipment Replacement Fund; and

WHEREAS, said budget amendments are required to be approved by ordinance.

**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 Equipment Replacement Fund budget for the fiscal year commencing October 1, 2023, is hereby amended, and adopted pursuant to Exhibits "A" 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 the Palm Beach on first reading this 12th day of December, 2023, and for second and final reading on this 9th day of January, 2024.

Danielle H. Moore, Mayor

Margaret A. Zeidman, Town Council President

Bobbie Lindsay, Council President Pro Tem

Julie Araskog, Town Council Member

ATTEST:

Edward A. Cooney, Town Council Member

Kelly Churney, Acting Town Clerk

Lewis S.W. Crampton, Town Council Member

Equipment Replacement Fund Revenue and Expense Summary

	FY2021 Actual	FY2022 Actual	FY2023 Budget	FY2024 Budget	Ordinance No. 027-2023 Amendment	FY2024 Amended Budget
Revenues						
Interest on Investments	(2,609)	(764,751)	100,000	100,000		100,000
Surplus Equipment Proceeds	109,744	(11,082)	75,000	75,000		75,000
Transfer from Gen and Other Funds	2,609,004	2,467,736	2,145,297	2,113,014		2,113,014
Donations	-	100,000	-	-	-	-
Miscellaneous	-	-	-	-	-	-
TOTALS	2,716,139	1,791,904	2,320,297	2,288,014	-	2,288,014
Expenses						
Transfer to Enterprise Funds	26,940	71,517	-	-	-	-
Contractual	9,688	130,885	-	-	-	-
Capital Lease - Kiosks	2,192	594	-	-	-	-
Capital Outlay - Equipment	1,649,327	1,661,158	1,422,819	1,373,885	2,061,582	3,435,467
Capital Outlay - IT Equipment	96,967	256,748	992,260	1,232,587		1,232,587
TOTALS	1,785,115	2,120,902	2,415,079	2,606,472	2,061,582	4,668,054
Total Revenues Over/(Under)	931,024	(328,999)	(94,782)	(318,458)	(2,061,582)	(2,380,040)
Expenses	-	-	(500,000)	(500,000)		(500,000)
Contingency						
Beg Investment in Capital Assets	9,400,495	9,441,722	9,262,576	11,869,048		11,869,048
Beg Unrestricted Net Assets	19,926,673	20,816,470	20,666,618	17,898,035		17,898,035
ENDING NET ASSETS	30,258,192	29,929,194	29,334,412	28,948,625		26,887,043