

TOWN OF PALM BEACH

Town Manager's Office

TENTATIVE -
SUBJECT TO
REVISION

TOWN COUNCIL MEETING

TOWN HALL
COUNCIL CHAMBERS-SECOND FLOOR
360 SOUTH COUNTY ROAD

AGENDA

TUESDAY, OCTOBER 9, 2012

9:30 AM

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

- I. CALL TO ORDER AND ROLL CALL
Mayor Gail L. Coniglio
David A. Rosow, President
Robert N. Wildrick, President Pro Tem
William J. Diamond
Richard M. Kleid
Michael J. Pucillo
- II. INVOCATION AND PLEDGE OF ALLEGIANCE
- III. PRESENTATIONS
 - A. Recognition of Alan Golboro, Planning and Zoning Commission, From February 2005 Through August 2012.
 - B. Recognition of John Schuler, Planning and Zoning Commission, From February 2004 Through September 2012.
 - C. Update Regarding Consolidation of the Town's Retirement Boards.
[Ray Snow, Chairman, Retirement Board of Trustees]
- IV. COMMENTS OF MAYOR GAIL L. CONIGLIO
- V. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

VI.	COMMUNICATIONS FROM CITIZENS – 3 MINUTE LIMIT PLEASE (Another opportunity for communications from citizens will be offered immediately after the lunch break.)	
VII.	APPROVAL OF AGENDA	
VIII.	CONSENT AGENDA	
A.	MINUTES: SEPTEMBER 11, 2012 APPROVAL OF THE MINUTES OF THE TOWN COUNCIL MEETING	Page 10
B.	MINUTES: SEPTEMBER 11, 2012 APPROVAL OF THE MINUTES OF THE SPECIAL TOWN COUNCIL MEETING-FIRST PUBLIC HEARING ON THE FY13 BUDGET	Page 28
C.	MINUTES: SEPTEMBER 19, 2012 APPROVAL OF THE MINUTES OF THE SPECIAL TOWN COUNCIL MEETING-SECOND PUBLIC HEARING ON THE FY13 BUDGET	Page 34
D.	APPROVAL OF MAJOR MATTERS CONSIDERED BY THE ARCHITECTURAL COMMISSION AT ITS MEETING ON SEPTEMBER 25, 2012	Page 37
E.	RESOLUTIONS	
1.	<u>RESOLUTION NO. 133-2012</u> A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Adopting the Updated Comprehensive Emergency Management Plan for the Town of Palm Beach. [Jay Boodheshwar, Director of Recreation and Special Projects]	Page 52
2.	<u>RESOLUTION NO. 134-2012</u> A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Purchase of Twenty (20) New Golf Cars and One (1) New Utility Vehicle at a Cost of \$84,647.80 from Club Car, Inc., for Use at the Par 3 Golf Course; Authorizing the Town Manager to Take Further Actions Necessary to Complete the Purchase. [[Jay Boodheshwar, Director of Recreation and Special Projects]	Page 58

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| 3. | <u>RESOLUTION NO. 135-2012</u> A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, to Authorize the Continued Services of Greenberg Traurig, LLP, to Represent the Town for Federal Lobbying Services in FY13 at a Cost Not to Exceed \$63,000. [Peter B. Elwell, Town Manager] | Page 65 |
| 4. | <u>RESOLUTION NO. 136-2012</u> A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Planning Study for the Town Hall Square Historic District and the Mizner Fountain by Bridges, Marsh & Associates in an Amount Not to Exceed \$48,000; Authorizing the Town Manager to Execute the Proposal on Behalf of the Town. [Thomas G. Bradford, Deputy Town Manager] | Page 69 |
| 5. | <u>RESOLUTION NO. 141-2012</u> A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Contract in an Amount Not to Exceed \$30,000 to EMS Management & Consultants, Inc., to Provide Emergency Medical Services Third Party Billing Services, Establishing a Budget for Said Services, and Authorizing the Town Manager to Take Actions Necessary to Complete Said Services. [Kirk W. Blouin, Director of Public Safety] | Page 88 |

F. OTHER

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| 1. | Approval of State Forfeiture Expenditures for FY2012. [Kirk W. Blouin, Director of Public Safety] | Page 93 |
| 2. | Waiver of Town Code of Ordinance Section 42-199 to Allow for Extra Work Days for the Queens Lane, Nightingale Trail and Garden Road Alley, Paving, Grading, and Drainage Improvements Project. [H. Paul Brazil, Director of Public Works] | Page 97 |
| 3. | Authorization of Funding for Temporary Piping to Bypass Lift Station 22. [H. Paul Brazil, Director of Public Works] | Page 99 |

IX. COMMITTEE REPORTS

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| A. | Public Works Committee Meeting of September 12, 2012. [Michael J. Pucillo, Chair] | Page 102 |
| 1. | Recommendation to Begin 2013 Construction Season Early – Waiver of Town Code of Ordinance Sections 42-198 and 42-199. [H. Paul Brazil, Director of Public Works] | Page 116 |

2.	Modification of Intersection at Miraflores Drive and North Lake Way. [H. Paul Brazil, Director of Public Works]	Page 118
3.	Recommendation to Add Replacement of Generators to the Design Scope of Work for Pump Stations A-39, A-41, A-42, and A-43. [H. Paul Brazil, Director of Public Works]	Page 122
4.	E-3 Force Main Replacement Scope of Work. [H. Paul Brazil, Director of Public Works]	Page 124
5.	Discussion of Proposed Changes to the Roadway Resurfacing Requirements in the Town's Right of Way Manual. [H. Paul Brazil, Director of Public Works]	Page 127
B.	Water Committee Meeting of September 12, 2012. [David A. Rosow, Chair]	Page 130
C.	Administrative and Personnel Committee Request for Town Council Authorization of Subpoenas. [Richard M. Kleid, Chair]	
X.	REGULAR AGENDA	
A.	Old Business	
1.	Request for Waiver of Code of Ordinances to Allow Extended Work Hours on the Flagler Memorial Bridge. [Ryan Hamrick, Project Manager, PCL Civil Contractors, Inc.]	Page 135
2.	<u>RESOLUTION NO. 139-2012</u> A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Contract for \$211,980 to Ranger Construction, for the Paving and Resurfacing of North Ocean Boulevard, Establishing a Total Budget of \$273,000 for Said Improvements, and Authorizing the Town Manager to Take Actions Necessary to Complete Said Improvements. [H. Paul Brazil, Director of Public Works]	Page 139
B.	New Business	
1.	Planning and Zoning Commission Recommendations re: Parking on South County Road. [John Page, Director of Planning, Zoning, and Building]	Page 146

2. RESOLUTION NO. 140-2012 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Contract Extension to Christmas Designers Inc., in the Amount of \$97,220.35 for the Installation and Storage of the Holiday Trees, Decorations and Lighting, and Establishing a Budget of \$102,000. [H. Paul Brazil, Director of Public Works] Page 149
3. Beach Management Agreement (BMA) Matters. Page 153
[H. Paul Brazil, Director of Public Works]
- a. BMA Application Letter.
- b. BMA Project List.
4. RESOLUTION NO. 142-2012 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Expenditure of \$32,000 to Replace a Portion of the E-6 Force Main Adjacent to the S-2 Pump Station. Page 157
[H. Paul Brazil, Director of Public Works]
5. Insurance Matters [Danielle Olson, Director of Human Resources] Page 161
- a. Health Insurance Update and Proposed Premium Rates for Calendar Year 2013.
- b. RESOLUTION NO. 138-2012 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Contract in an Amount not to Exceed \$75,000 to Minnesota Life, to Provide Group Life, Accidental Death and Dismemberment, and Supplemental Life Insurance and Authorizing the Town Manager to Take Actions Necessary to Complete Said Services.
6. Proposed Pay Range Increase and Anniversary Date Pay Raises for Police Officers and Sergeants. [Peter B. Elwell, Town Manager] Page 176
7. Code Enforcement Board Recommendation for Foreclosure-151 Chilean Avenue. [John C. Randolph, Town Attorney] Page 179
8. Appointment of an Alternate Member to the Planning and Zoning Commission. Page 229
[John Page, Director of Planning, Zoning, and Building]

XI. ORDINANCES

A. Second Reading

None

B. First Reading

1. ORDINANCE NO. 17-2012 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 130, Vehicles for Hire, Certificate of Public Convenience and Necessity and Permit, Division 2, Section 130-71, Automobile Liability Insurance Requirement, by Amending Automobile Liability Insurance Requirements for Taxicab Certificates of Public Convenience and Necessity; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date. [Thomas G. Bradford, Deputy Town Manager]

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XII. ANY OTHER MATTERS

XIII. ADJOURNMENT

PLEASE TAKE NOTE:

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

PROCEDURES FOR PUBLIC PARTICIPATION

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

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

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

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

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

Town of Palm Beach
Meeting Schedule

10/3/12

Tue 10/09/2012 09:30 AM	Town Council Meeting	Council Chambers
Wed 10/10/2012 09:30 AM	Town Council Meeting-Development Review Matters	Council Chambers
Thu 10/11/2012 09:00 AM	FDEP Beach Management Agreement (BMA) Stakeholder's Meeting	Council Chambers
Tue 10/16/2012 09:30 AM	Planning and Zoning Commission Meeting	Council Chambers
Wed 10/17/2012 09:30 AM	Landmarks Preservation Commission Meeting	Council Chambers
Thu 10/18/2012 02:00 PM	Code Enforcement Board Meeting	Council Chambers
Fri 10/19/2012 09:00 AM	Royal Poinciana Way Committee Meeting	Council Chambers
Wed 10/24/2012 09:00 AM	Architectural Commission Meeting	Council Chambers
Thu 10/25/2012 09:00 AM	Shore Protection Board Meeting	Council Chambers
Tue 10/30/2012 09:00 AM	Grievance Resolution Board Meeting re: Rothrock	Council Chambers
Wed 10/31/2012 09:00 AM	Grievance Resolution Board Meeting re: Rothrock	Council Chambers
Thu 11/01/2012 04:00 PM	PERC Meeting	Chambers Conference Room
Mon 11/05/2012 09:30 AM	Administrative & Personnel Committee Meeting re: Jason Vega	Council Chambers

Wed 11/07/2012 09:00 AM	Recreation Advisory Commission Meeting	Council Chambers
Thu 11/08/2012 09:00 AM	FDEP Beach Management Agreement (BMA) Stakeholder's Meeting	Council Chambers
Mon 11/12/2012 04:00 AM	VETERANS' DAY	TOWN HALL CLOSED
Tue 11/13/2012 02:00 PM	Code Enforcement Board Meeting	Council Chambers
Wed 11/14/2012 09:30 AM	Landmarks Preservation Commission	Council Chambers
Thu 11/15/2012 09:30 AM	Town Council Meeting-Regular and Development Review Matters	Council Chambers

TOWN OF PALM BEACH

Town Council Meeting on: October 9, 2012

Section of Agenda

Consent Agenda

Agenda Title

MINUTES: SEPTEMBER 11, 2012

APPROVAL OF THE MINUTES OF THE REGULAR TOWN COUNCIL MEETING

Presenter

Susan A. Owens, Town Clerk

Supporting Documents

- Minutes of the Town Council Meeting Held on September 11, 2012

**MINUTES OF THE REGULAR THE TOWN COUNCIL MEETING
HELD ON TUESDAY, SEPTEMBER 11, 2012**

I. CALL TO ORDER AND ROLL CALL

The Regular Town Council meeting was called to order on Tuesday, September 11, 2012, at 9:30 a.m., in the Town Council Chambers. On roll call, all of the elected officials were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Council President Rosow asked everyone to stand for a moment of silence for the victims of 9-11. Town Clerk Owens gave the invocation. Council President Rosow led the Pledge of Allegiance.

III. PRESENTATIONS

A. Presentation by Applicants for the Planning & Zoning Commission

The following applicants provided presentations to the Town Council:

Peter Broberg
Bobbie Lindsay Buck
Jeffrey Cloninger
Lewis Crampton
Thomas Greenbaum
Bruce Langmaid
C. Tanner Rose
Michael Spaziani

Town Manager Elwell stated that Alan Horwitz was unable to attend the meeting.

IV. COMMENTS OF MAYOR GAIL L. CONIGLIO

Mayor Coniglio offered her acknowledgement and tribute for the 9-11 loss of lives; it was a day that changed history.

She requested that the Town Council consider a Town-wide view of the paving item on the Agenda.

Mayor Coniglio thanked the Police Foundation for their offer of \$150,000, which purchased the security system upgrades.

She stated that, in collaboration with the employees and the Council, an Employee Appreciation Picnic will be held on October 13, 2012. She added that she would accept donations under \$100 that she could use as gifts to the employees. The Everglades Club and the Police Benevolent Foundation have offered their funds to have games, food, and activities that support our community and our valued employees.

V. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

Responding to Council Member Diamond, Investment Advisory Committee Chairman Dr. Michael Andrews stated that the Town's investments are well diversified. He stated that the Florida League of Cities (FLC) has three investment vehicles, all having different returns. PFM Asset Management handles the Town's very short term trust and most of the real short term money market requirements. The reason for increasing our investments with the FLC to 50% is that we have had very good success with them. PFM Asset Management could imitate these results, and have indicated that they would like to; but, two of the Town's investment managers are doing exceedingly well and the Committee would like to keep them. He added that Director of Finance Struder, and the Finance Department, have done an excellent job picking and choosing how they actually fund each one of those investments.

VI. COMMUNICATIONS FROM CITIZENS – 3 MINUTE LIMIT PLEASE – None

VII. APPROVAL OF AGENDA

The following changes were made to the Agenda:

AMENDED: Item No. VIII.D., Approval of Major Matters Considered by the Architectural Commission at its Meeting on August 22, 2012, was amended by removing the item regarding 229 Ridgeview Drive, as an appeal of ARCOM's decision for that project has been filed.

PULLED FROM CONSENT: Item No. VIII.E.21., Resolution No. 119-2012, Awarding a Contract to Kimley-Horn & Associates, Inc., for the Police Department HVAC Project, was pulled from the Consent Agenda and placed under New Business as Item No. X.B.4.

Regarding Resolution No. 102-2012, Council Member Pucillo noted for the public that Hedrick Brothers Construction Company, Inc. has agreed to do the pre-construction work for the Par 3 Golf Course Clubhouse for \$10.00. He commended and thanked them for their service to the Town.

Council Member Kleid clarified that they had actually agreed to do the work for nothing, and the only reason for the \$10.00 was for legal purposes.

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

VIII. CONSENT AGENDA

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

- A. MINUTES: AUGUST 14, 2012
APPROVAL OF THE MINUTES OF THE TOWN COUNCIL MEETING
- B. MINUTES: AUGUST 14, 2012
APPROVAL OF THE MINUTES OF THE SPECIAL TOWN COUNCIL MEETING-CLOSED DOOR REGARDING TOWN OF PALM BEACH VS UNITED STATES OF AMERICA
- C. MINUTES: AUGUST 15, 2012
APPROVAL OF THE MINUTES OF THE TOWN COUNCIL MEETING
- D. APPROVAL OF MAJOR MATTERS CONSIDERED BY THE ARCHITECTURAL COMMISSION AT ITS MEETING ON AUGUST 22, 2012 – *Item amended by removing the item regarding 229 Ridgeview Drive, as an appeal of ARCOM'S decision had been filed. The remaining items were approved.*
- E. RESOLUTIONS
 - 1. RESOLUTION NO. 96-2012 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Purchase of 31 Additional Laserfiche User Licenses from MCCi, in the Amount of \$22,755.86, Authorizing the Town Manager to Issue a Purchase Order for these Licenses, and Providing an Effective Date. [Susan Owens, Town Clerk]
 - 2. RESOLUTION NO. 97-2012 A Resolution of the Town Council of the Town Of Palm Beach, Palm Beach County, Florida, Approving The Use Of Contingency Reserve From The Town Risk Fund As A Result Of

Damages Sustained To Town Property From Tropical Storm Isaac In An Amount Not To Exceed \$50,000.

[Thomas G. Bradford, Deputy Town Manager]

3. RESOLUTION NO. 98-2012 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Investment Policy for the Town; Providing an Effective Date. [Jane Struder, Director of Finance]

4. RESOLUTION NO. 99-2012 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Designating Town Depositories for Fiscal Year 2013 Pursuant to Section 2-517 of the Town Code of Ordinances and Designating Parties to Sign Checks or Warrants on Behalf of the Town Pursuant to Section 2-36 of the Town Code of Ordinances.

[Jane Struder, Director of Finance]

5. RESOLUTION NO. 100-2012 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a One Year Renewal Contract to Kent Security Services, Inc. in the Amount of \$48,951.00, with a Contingency of \$4,887.00, for the Provision of Armed Security Guard Services at the Town Docks, Bid No. 2010-23; Authorizing the Town Manager to Take Further Action Necessary to Effectuate the Contract.

[Jay Boodheshwar, Director of Recreation and Special Projects]

6. RESOLUTION NO. 101-2012 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a One Year Renewal Contract to Academy Design and Technical Services, Inc. with a Pay Rate Multiplier of 26% for the Provision of Contractual Labor Services, Bid No. 2009-22; Authorizing the Town Manager to Take Further Action Necessary to Effectuate the Contract.

[Jay Boodheshwar, Director of Recreation and Special Projects]

7. RESOLUTION NO. 102-2012 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Pre-construction Phase Contract to Hedrick Brothers Construction Company, Inc., in the Amount of \$10 and Establishing a Pre-Construction Phase Budget of \$10,000 for Construction Management At-Risk Services for the Par 3 Golf Course Clubhouse Construction Project; and Authorizing the Town Manager to Enter into an Agreement Necessary to Complete this Phase of Said Project.

[Jay Boodheshwar, Director of Recreation and Special Projects]

8. RESOLUTION NO. 106-2012 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the

Purchase of Annual Software Support and Maintenance for FY13 upon Approval of the FY13 Budget for Cartégraph in the Amount of \$54,732.00, Sungard Public Sector in the Amount of \$91,068.60, Tyler Technologies in the Amount of \$80,527.04, MCCi in the Amount of \$24,824.20, MCCi in the Amount of \$4,394.25 upon Approval of Resolution 96-2012 and Software House International in the Annual Amount of \$32,885.04 and Authorizing the Town Manager to Execute the Purchases on Behalf of the Town.
[Thomas G. Bradford, Deputy Town Manager]

9. RESOLUTION NO. 107-2012 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Award of the Contract for Office Supplies to Office Depot, Inc., in an Amount Not to Exceed \$50,000.
[Jane Struder, Director of Finance]

10. RESOLUTION NO. 108-2012 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Extension of the Contract with Port Consolidated, Inc., to Supply Unleaded and Diesel Fuel in an Amount Not to Exceed \$350,000. [Jane Struder, Director of Finance]

11. RESOLUTION NO. 109-2012 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Contract to Terra Maintenance Company, in the Amount of \$34,050 and Establishing a Project Budget of \$41,000. [H. Paul Brazil, Director of Public Works]

12. RESOLUTION NO. 110-2012 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Contract Extension to John C. Cassidy Air Conditioning., in the Amount Not-to-Exceed \$50,000.
[H. Paul Brazil, Director of Public Works]

13. RESOLUTION NO. 111-2012 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Contract to International Sweeping Inc., dba Facilities Pro Sweep, in the Amount of \$98,820 and Establishing a Project Budget of \$104,000. [H. Paul Brazil, Director of Public Works]

14. RESOLUTION NO. 112-2012 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Contract Extension to Tree Huggers Landscaping and Nursery LLC, in the Amount of \$68,590 and Establishing a Project Budget of \$72,000. [H. Paul Brazil, Director of Public Works]

15. RESOLUTION NO. 113-2012 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Contract Extension to Waste Management, Inc., in the Amount of \$241,855.91 and Establishing a Project Budget of \$244,500. [H. Paul Brazil, Director of Public Works]
16. RESOLUTION NO. 114-2012 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Contract Extension to GCC Commercial Cleaning, in the Amount of \$118,200 and Establishing a Project Budget of \$124,000. [H. Paul Brazil, Director of Public Works]
17. RESOLUTION NO. 115-2012 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Contract Extension to Batallan Enterprises, Inc., dba Propertyworks, in the Amount of \$30,906 and Establishing a Project Budget of \$33,000. [H. Paul Brazil, Director of Public Works]
18. RESOLUTION NO. 116-2012 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Contract Extension to All Florida Tree and Landscape, Inc., in the Amount of \$39,675, and Establishing a Project Budget of \$42,000. [H. Paul Brazil, Director of Public Works]
19. RESOLUTION NO. 117-2012 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Contract Extension to Academy Design and Technical Services, Inc., in the Amount of \$51,710, and Establishing a Project Budget of \$57,000. [H. Paul Brazil, Director of Public Works]
20. RESOLUTION NO. 118-2012 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Contract to Corzo Castella Carballo Thompson Salman, P.A. in the Amount of \$58,600 for the D-3/D-4 Pump Stations Electrical Upgrades Project, Establishing a Design and Bid Phase Budget of \$65,000 for Said Services. [H. Paul Brazil, Director of Public Works]
21. RESOLUTION NO. 119-2012 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Contract to Kimley-Horn & Associates, Inc., in the Amount of \$48,875 for Police Department HVAC Project, Establishing a Design and Bid Phase Budget of \$50,000 for Said Services. [H. Paul Brazil, Director of Public Works] — ***Item pulled from Consent Agenda and moved to New Business as Item No. X.B.4.***
22. RESOLUTION NO. 122-2012 A Resolution of the Town Council of the

Town of Palm Beach, Palm Beach County, Florida, Awarding a Contract to Marc & Sons Landscape & Tree Services, LLC, in the Amount of \$38,941 and Establishing a Project Budget of \$41,000. [H. Paul Brazil, Director of Public Works]

23. RESOLUTION NO. 130-2012 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Fiscal Year 2013-14 Annual Funding Application to the Florida Department of Environmental Protection, Beach Erosion Control Program. [H. Paul Brazil, Director of Public Works]

24. RESOLUTION NO. 131-2012 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Proposed Liability, Property, Workers' Compensation, Automobile, Loss Fund Insurance Coverages and Other Insurance Coverages Incidental to the Town's Operations for FY2013. [Thomas G. Bradford, Deputy Town Manager]

25. RESOLUTION NO. 132-2012 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Proposed Third Party Administrative (TPA) Services for Liability, Property and Workers' Compensation Claims Management Services Agreement for FY2013 with Preferred Governmental Claim Solutions (PGCS) of Lake Mary, Florida in the Amount of \$32,470; and Authorizing the Town Manager to Execute the Agreement on Behalf of the Town. [Thomas G. Bradford, Deputy Town Manager]

B. OTHER

22. Reappointment of Alan Miller to the Public Employees Relations Commission (Mini-PERC). [Danielle Olson, Director of Human Resources]

23. Request for Contingency Allocation for Labor/Legal Expenses for and for Compensated Absences. [Jane Struder, Director of Finance]

24. Approval of Recommendation to Reject All Bids Received in Response to RFP No. 2012-14 (Telemetry System Replacement Project). [H. Paul Brazil, Director of Public Works]

IX. PUBLIC HEARINGS

A. RESOLUTION NO. 104-2012 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing Ad Valorem Tax Exemptions for the Property Hereinafter Described (300 Barton Avenue) and

Stating that the Subject Property Meets the Criteria Set Forth in Article V of Chapter 54, of the Code of Ordinances of the Town of Palm Beach, Relating to Landmarks Preservation and Titled "Tax Exemptions." [John Page, Director of Planning, Zoning, and Building]

Motion was made by Council Member Diamond, and seconded by Council Member Kleid, to approve Resolution No. 104-2012. On roll call, the motion carried unanimously.

- B. RESOLUTION NO. 105-2012 A Resolution of the Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Authorizing Ad Valorem Tax Exemptions for the Property Hereinafter Described (The Breakers) and Stating that the Subject Property Meets the Criteria Set Forth in Article V of Chapter 54, of the Code of Ordinances of the Town of Palm Beach, Relating to Landmarks Preservation and Titled "Tax Exemptions." [John Page, Director of Planning, Zoning, and Building]

Motion was made by Council Member Diamond, and seconded by Council Member Kleid, to approve Resolution No. 105-2012. On roll call, the motion carried unanimously.

X. REGULAR AGENDA

A. Old Business

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

Ryan Hamrick, PCL Civil Contractors, Inc., provided an update on the status of the Flagler Memorial Bridge project. He stated that construction activity will begin very shortly; we are making significant progress. He explained that the eastbound ramp coming off Flagler Drive will be closed permanently, and the northbound ramp going westbound will temporarily close for a few months. Other than that, traffic will stay as is for quite awhile, with two lanes of traffic going each way. The south sidewalk will be closed due to safety issues, and the north sidewalk will remain open with signs showing people where to cross. A letter will be sent regarding the relief of some of the hammering during the project.

Discussion ensued regarding the financial impact of the delay and construction on the south bridge.

Town Manager Elwell stated that Staff is confident that the delay will not cause scheduling conflicts with the construction on the south bridge.

2. Scheduling of Public Workshop and Identification of Deadline for Woods Hole Review of the Town's Long Term Coastal Management Program.
[H. Paul Brazil, Director of Public Works]

Director of Public Works Brazil provided possible dates for the workshop, and recommended that the workshop be held after the Beach Management Agreement has been finalized.

Discussion ensued regarding possible dates.

Council Member Kleid stated that he thought December 10, 2012, would be the best date, as more of the residents would be in Town.

Council consensus was to schedule the Public Workshop for December 10, 2012, at 9:30 a.m. January 2013, was identified as the deadline for Woods Hole Group's Review.

3. Reconsideration of Roadway Restoration Plan for A-39 to A-7 Force Main Replacement Project.
[H. Paul Brazil, Director of Public Works]

Motion was made by Council Member Diamond, and seconded by Council President Pro Tem Wildrick, to reconsider Resolution No. 121-2012. On roll call, the motion carried unanimously.

- a. RESOLUTION NO. 121-2012 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Increasing the Burkhardt Construction Purchase Order Number 120702 for the A-39 to A-7 Force Main Replacement Project by the Amount of \$89,000.

Director of Public Works Brazil provided an overview of the two paving options and their costs. He stated that the option approved at the August 14, 2012, Town Council meeting was for partial paving. Option 2 is full milling and resurfacing of the entire project. If Option 2 is selected, then the additional cost to the Town will be \$251,997.60. Sufficient funding is available within the project budget; however, this will nearly exhaust the contingency. If the Town Council selects Option 2, then Staff is recommending that an additional \$92,485.14 be allocated to the contingency.

Discussion ensued regarding: cost, scope of work, bond funding, project budget and contingency funds available, the status of the overall Accelerated Capital Improvement Plan (ACIP), the possibility of using the savings from other projects within the ACIP to fund projects that were put on hold pending funding, state and Town paving schedules, aesthetics and quality of life, property values, the Right of Way Manual, Florida Public Utilities' (FPU) paving responsibilities in the north end, contracting issues with FPU, reprioritization of capital improvement projects and

schedules, functionality and safety of partially paved roads, side street paving, north end repaving needs, and equal treatment of the north and south end paving needs.

Motion was made by Council Member Pucillo, and seconded by Council President Pro Tem Wildrick, to approve Option #2, to mill and resurface the entire roadway south of South County Road to Phipps Ocean Park. On roll call, the motion carried 4-1, with Council President Rosow dissenting.

Motion was made by Council Member Diamond, and seconded by Council Member Pucillo, to approve Resolution No. 121-2012. On roll call, the motion carried unanimously.

Mayor Coniglio stated that the Town Council should look at project reprioritization at the October 9, 2012, Town Council meeting so we are well aware of all of the details. We need to know what we're putting off, what we're putting out, and what we're skipping over.

Staff was directed to bring all of the capital improvement project details and options back to the Town Council at the October 9, 2012, Town Council meeting.

B. New Business

22. Request to Upgrade a Part-Time Position to a Full-Time Position in the Purchasing Division of the Finance Department.
[Jane Struder, Director of Finance]

Director of Finance Struder provided an overview of the request.

Motion was made by Council Member Diamond, and seconded by Council Member Pucillo, to approve the request to upgrade a part-time position to a full-time position in the Purchasing Division of the Finance Department. On roll call, the motion carried unanimously.

23. RESOLUTION NO. 103-2012 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Contract in an Amount not to Exceed \$47,000 to Murphy & Stillings, LLC and also Authorizing An Amount not to Exceed \$13,200 to Research Atlantica, Inc., Totaling \$60,200, to Provide Historic Preservation Consulting Services, Establishing a Budget for Said Services, and Authorizing the Town Manager to Take Actions Necessary to Complete Said Services.
[John Page, Director of Planning, Zoning, and Building]

Motion was made by Council Member Diamond, and seconded by Council Member Kleid, to approve Resolution No. 103-2012. On roll call, the motion carried unanimously.

24. Planning & Zoning Commission Appointments.
[John Page, Director of Planning, Zoning, and Building]

Motion was made by Council Member Diamond, and seconded by Council Member Kleid, to appoint Barbara Lindsay Buck, Lewis Crampton, and C. Tanner Rose as regular members to the Planning and Zoning Commission, and Peter Broberg, Jeffrey Cloninger, and Bruce Langmaid as alternate members to the Planning and Zoning Commission. On roll call, the motion carried unanimously.

The item below was pulled from the Consent Agenda:

4. RESOLUTION NO. 119-2012 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Contract to Kimley-Horn & Associates, Inc., in the Amount of \$48,875 for Police Department HVAC Project, Establishing a Design and Bid Phase Budget of \$50,000 for Said Services. [H. Paul Brazil, Director of Public Works]

Director of Public Works Brazil provided an overview of the project.

Discussion ensued regarding cost, replacement options, and piping.

Motion was made by Council Member Diamond, and seconded by Council Member Pucillo, to approve Resolution No. 119-2012. On roll call, the motion carried unanimously.

XI. ORDINANCES

A. Second Reading

22. ORDINANCE NO. 10-2012 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 134, Zoning, as Follows: Sec. 134-2, Definitions and Rules of Construction, by Modifying the Definition of Declaration of Use Which May Include Remedies for Violation of Limitations, Conditions of Approval or the Code of Ordinances and Submission of Annual Certificates of Compliance; Sec. 134-261, Town Council Actions; Submission to Planning and Zoning Commission for Recommendations and Report; Hearings, by Replacing the Term Building Official with Director of Planning, Zoning and Building Department or Designee; Sec. 134-887, Permitted Uses, in the R-B Zoning District to Provide for Outdoor Seating for the Par 3 Golf Course Club House; Sec. 134-1159, Special Exception Uses, by Changing the Special Exception Requirement in the C-WA Zoning District for Retail and Service Activities Not Specifically Cited as Permitted Uses from a Gross Leasable Area of 2,000 Square Feet to 4,000 Square Feet; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.

[John Page, Director of Planning, Zoning, and Building]

otion was made by Council Member Diamond, and seconded by Council Member Kleid, to adopt Ordinance No. 10-2012, on second and final reading. On roll call, the motion carried unanimously.

23. ORDINANCE NO. 15-2012 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 114 Taxation, Article II, Local Business Tax, at Section 114-32 Operation Without Business Tax Receipt Prohibited, Regarding Certain Entities Exempt from Business Tax Receipts; Amending Section 114-34, Penalty for Not Obtaining Business Tax Receipt, to Add a Penalty Fee; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.

[John Page, Director of Planning, Zoning, and Building]

Motion was made by Council Member Diamond, and seconded by Council Member Pucillo, to adopt Ordinance No. 15-2012, on second and final reading. On roll call, the motion carried unanimously.

- B. First Reading – None

XII. DEVELOPMENT REVIEWS

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

- A. Appeals – None

- B. Time Extensions & Waivers

22. Request for Waiver of Section 42-199, Hours of Construction Work, at 252-254 Worth Avenue Per Letter Dated August 30, 2012, from Robert E. Waskiewicz, Vice President, Fine Line Construction Contractors, Inc.

Keith Spina, Glidden, Spina, and Partners Architects, on behalf of Robert E. Waskiewicz, provided an overview of the request.

Director of Planning, Zoning, and Building Page provided Staff's comments.

Motion was made by Council Member Diamond, and seconded by Council Member Pucillo, to approve the request for Waiver of Section 42-199, Hours of Construction Work, at 252-254 Worth Avenue, subject to the standard conditions of approval. On roll call, the motion carried unanimously.

C. Variances, Special Exceptions and Site Plan Reviews

22. Old Business – None

23. New Business

- a. VARIANCE #28-2012 The application of Society of the Four Arts, Inc.; relative to property commonly known as **1, 2, 3, & 4 Four Arts Plaza and 240 Cocoanut Row**; described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting a variance to allow the installation of a sculpture in the “Sculpture Garden” which is 14 feet high including a 2 foot high base in lieu of the 12 foot maximum allowed.
[Representative: Keith Spina]
[ARCOM Recommendation: Implementation of the Variance will not cause negative architectural impacts to the subject landmark property. Carried 6-1, Ms. Diver opposed.]

There was no ex-parte communication declared by the Town Council.

Architect Keith Spina, Glidden, Spina, and Partners Architects, representing Society of the Four Arts, Inc., provided an overview of the applicant’s request.

Director of Planning, Zoning, and Building Page provided Staff’s comments.

Attorney Maura Ziska stated that she had no objections to the project.

Motion was made by Council Member Diamond, and seconded by Council Member Kleid, that Variance #28-2012 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. On roll call, the motion carried 4-1, with Council President Pro Tem Wildrick dissenting.

- b. SITE PLAN REVIEW #8-2012 WITH SPECIAL EXCEPTION AND VARIANCES The application of First Republic Bank; relative to property commonly known as **241 Royal Palm Way**; described as The south 134 feet of Lot 17, Block A, Royal Park Addition to Palm Beach according to the Plat recorded in Plat Book 4, Page 1, Public Records of Palm Beach County; located in the C-OPI Zoning District. The applicant requests a special exception to open a new bank office for First Republic Bank which will be 7,086 sq. ft. of gross leasable area and have an ATM

outside in the parking garage. The applicant is required to obtain Town Council approval and a finding that the proposed use is town serving to operate a bank in this location. Site Plan Review is requested to modify the configuration of the spaces in the existing parking garage which will reduce the total number of parking spaces to accommodate a new handicap parking space and allow an accessible entry into the building from the parking garage where one currently does not exist. A variance is requested to allow the number of parking spaces in the garage to be reduced from 32 spaces to 30 spaces proposed in lieu of the 35 required based on the gross leasable square footage of the building which remains unchanged.

[Attorney: Maura A. Ziska]

There was no ex-parte communication declared by the Town Council.

Attorney Ziska, on behalf of First Republic Bank, provided an overview of the applicant's request.

Director of Planning, Zoning, and Building Page provided Staff's comments.

Motion was made by Council Member Diamond, and seconded by Council Member Kleid, that Site Plan Review #8-2012 be approved based upon the finding that the approval of the site plan will not adversely affect the public interest and that the Council certifies that the specific zoning requirements governing the individual use have been met and that satisfactory provision and arrangement has been made concerning Section 134-329, items 1 through 11, and that the special exception related to Site Plan Review #8-2012 shall be granted based upon the finding that such grant will not adversely affect the public interest and that the applicable criteria set forth in Section 134-229 of the Town Code have been met, and that the variance related to Site Plan Review #8-2012 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. On roll call, the motion carried unanimously.

c. SITE PLAN REVIEW #9-2012 WITH SPECIAL EXCEPTION

The application of The Breakers Palm Beach, Inc.; relative to property commonly known as **1 South County Road**; described as All of the plat of Breakers Row No. 1, recorded in Plat Book 46, Pages 188-190, Public Records of Palm Beach County; located in the PUD-A Zoning District. The applicant requests a site plan review with special exception to demolish and rebuild two of the five existing golf course and hotel maintenance buildings near the west end of the Pine Walk. The two buildings will be rebuilt in the same locations but will be enlarged. Building #2 will increase by 852 square feet, and Building #5 will increase by 1,000 square feet,

1 for a total increase of 1,852 square feet.

2 [Attorneys: Brian M. Seymour or James M. Crowley]

3 There was no ex-parte communication declared by the Town
4 Council.

5
6 Attorney Crowley, on behalf of The Breakers Palm Beach, Inc.,
7 provided an overview of the applicant's request.

8
9 Zoning Administrator Castro provided Staff's comments.

10
11 **Motion was made by Council Member Diamond, and seconded by Council Member Kleid,**
12 **that Site Plan Review #9-2012 be approved based upon the finding that the approval of the**
13 **site plan will not adversely affect the public interest and that the Council certifies that the**
14 **specific zoning requirements governing the individual use have been met and that**
15 **satisfactory provision and arrangement has been made concerning Section 134-329, items 1**
16 **through 11, and that the special exception related to Site Plan Review #9-2012 shall be**
17 **granted based upon the finding that such grant will not adversely affect the public interest**
18 **and that the applicable criteria set forth in Section 134-229 of the Town Code have been**
19 **met. On roll call, the motion carried unanimously.**

- 20
21 d. SPECIAL EXCEPTION #22-2012 The application of Virginia L.
22 Mortara; relative to property commonly known as **319 El Vedado**
23 **Road**; described as Lot 52 and the West 25 feet of Lot 53,
24 REVISED PLAT OF JUNGLE POINT ADDITION TO THE
25 TOWN OF PALM BEACH, according to the Plat thereof, as
26 recorded in Plat Book 18, Page 21, of the Public Records of Palm
27 Beach County, Florida; located in the R-A Zoning Districts. The
28 applicant is requesting a special exception to allow two sliding
29 gates (one at each entrance) on El Vedado (which is a dead end
30 street) with an 8.1 foot setback from the street pavement in lieu of
31 the 18 foot minimum required.

32 [Attorney: Maura A. Ziska]

33
34 There was no ex-parte communication declared by the Town
35 Council.

36
37 Attorney Ziska, on behalf of Virginia L. Mortara, provided an
38 overview of the applicant's request.

39
40 Zoning Administrator Castro provided Staff's comments.

41
42 **Motion was made by Council Member Diamond, and seconded by Council President Pro**
43 **Tem Wildrick, that Special Exception #22-2012 shall be granted based upon the finding**
44 **that such grant will not adversely affect the public interest and that the applicable criteria**
45 **set forth in Section 134-229 of the Town Code have been met. On roll call, the motion**
46 **carried unanimously.**

- e. SPECIAL EXCEPTION #23-2012 The application of The Town of Palm Beach; relative to property commonly known as **2345 South Ocean Blvd.**; described as Lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting a special exception and site plan review to permit the construction of a 3,982 square foot two-story clubhouse and pro shop for the Palm Beach Par 3 Golf Course. The clubhouse will also include a 150 seat restaurant and small bar, and the ordinary hours of operation for the restaurant will be Monday through Sunday 7:30 a.m. until 10:00 p.m. A variance is requested to permit construction the clubhouse using a point of measurement of 14.98 feet NGVD in lieu of 7.5 feet NGVD required. The applicant also intends in the future to convert the existing clubhouse into a golf cart storage facility as a second stage of construction).
[Attorney: M. Timothy Hanlon]
[ARCOM Recommendation: Implementation of the variance will not cause negative architecture impacts to the subject property. Carried 7-0.]

The following ex-parte communications were declared: Council President Rosow and Council Member Diamond spoke with Attorney Hanlon, who advocated the position of his client.

(Clerk's Note: There was a scrivener's error on the title of this item. The correct title should read, "Special Exception #23-2012 with Site Plan Review and Variance".

Attorney Hanlon, on behalf of The Town of Palm Beach, provided an overview of the applicant's request.

Zoning Administrator Castro provided Staff's comments.

Motion was made by Council Member Diamond, and seconded by Council Member Kleid, that Special Exception #23-2012 shall be granted based upon the finding that such grant will not adversely affect the public interest and that the applicable criteria set forth in Section 134-229 of the Town Code have been met, and that the site plan review related to Special Exception #23-2012 be approved based upon the finding that the approval of the site plan will not adversely affect the public interest and that the Council certifies that the specific zoning requirements governing the individual use have been met and that satisfactory provision and arrangement has been made concerning Section 134-329, items 1 through 11, and that the variance related to Special Exception #23-2012 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. On roll call, the motion carried unanimously.

Mayor Coniglio offered her thanks to the entire community for their efforts, and offered her condolences to Raymond Floyd for

his wife's passing.

Zoning Administrator Castro stated that he would also like to thank American Consulting Engineers, who had only charged a nominal fee for its review of the traffic concurrency requirements.

D. Other

22. Special Exception #17-2011 - Review of Conditions of Approval for Cha Cha's Restaurant, 150 Worth Avenue.

[John Page, Director of Planning, Zoning, and Building]

Mayor Coniglio recused herself, left the dais, and provided a Memorandum of Voting Conflict Form 8b to Town Clerk Owens.

Zoning Administrator Castro stated that Staff had no issues with the operation of Cha Cha's Restaurant. However, Code Enforcement conveyed that there was a complaint regarding people exiting Cha Cha's Restaurant and getting on a trolley. Although it is not specifically related to Cha Cha's and its operation, Staff will work with the operators of the restaurant on this.

XIII. ANY OTHER MATTERS

Council President Rosow reminded everyone of the Special Town Council Budget meeting at 5:01 p.m.

XIV. ADJOURNMENT

There being no further business, the September 11, 2012, regular Town Council meeting was adjourned at 11:55 a.m.

APPROVED:

ATTEST:

David A. Rosow
Town Council President

Susan A. Owens, MMC
Town Clerk

Date

TOWN OF PALM BEACH

Town Council Meeting on: October 9, 2012

Section of Agenda

Consent Agenda

Agenda Title

MINUTES: SEPTEMBER 11, 2012

APPROVAL OF THE MINUTES OF THE SPECIAL TOWN COUNCIL MEETING BUDGET
HEARING #1

Presenter

Susan A. Owens, Town Clerk

Supporting Documents

- Minutes of the Special Town Council Meeting Held on September 11, 2012

**MINUTES OF THE SPECIAL TOWN COUNCIL MEETING
HELD ON TUESDAY, SEPTEMBER 11, 2012**

I. CALL TO ORDER AND ROLL CALL

The Special Town Council Meeting was called to order at 5:01 p.m. on Tuesday, September 11, 2012, in the Town Council Chambers. On roll call, all of the elected officials were found to be present.

II. PLEDGE OF ALLEGIANCE

Town Council President Rosow led the Pledge of Allegiance.

III. APPROVAL OF AGENDA

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

IV. PUBLIC HEARING ON PROPOSED MILLAGE RATE, TENTATIVE FY13 BUDGETS AND NON-AD VALOREM ASSESSMENTS

A. Notice of Proposed Property Taxes

B. Proposed Operating Millage

C. Reasons for Proposed Operating Millage Rate Increase from the Rolled-Back Millage Rate

Town Manager Elwell provided an overview of the proposed operating millage rate increase. He stated that the major reasons for this increase are as follows:

1. Increased cost of pension benefits, (\$1,035,548) due primarily to the decisions to grandfather pension-eligible employees and to decrease the defined benefit plan contributions for some general employees;
2. Increased health insurance costs (\$280,272);
3. Increase in the transfer to the OPEB trust (\$276,000); and
4. Increased sewage treatment and disposal costs (\$303,634).

1 D. Comments and Questions from Public – None

2
3 E. Discussion and Adoption (with changes, if any) of Proposed Operating Millage
4 Rate for FY13.

- 5
6 1. RESOLUTION NO. 124-2012 A Resolution of the Town Council of the
7 Town of Palm Beach, Palm Beach County, Florida, Adopting the
8 Proposed Millage Rate Necessary to Fund the Tentative General
9 (Operating) Fund Budget for the 2012-2013 Fiscal Year.

10
11 **Motion was made by Council Member Diamond, seconded by Council Member Pucillo, to**
12 **approve Resolution No. 124-2012. On roll call, the motion carried unanimously.**

13
14 F. Non-Ad Valorem Assessments

- 15
16 1. Commercial Solid Waste Fee Assessments
17 [H. Paul Brazil, Director of Public Works]

18
19 Director of Public Works Brazil provided an overview of the Commercial
20 Solid Waste Fee Assessment.

- 21
22 a. RESOLUTION NO. 125-2012 A Resolution of the Town Council of
23 the Town of Palm Beach, Palm Beach County, Florida Relating to
24 the Provision of Commercial Solid Waste Collection Services;
25 Providing Authority and Definitions; Approving the Updated
26 Assessment Rolls; Providing for the Reimposition of the
27 Assessments to Fund the Commercial Solid Waste Collection
28 Services; Providing for Collection of the Assessment Pursuant to the
29 Uniform Assessment Collection Act; Providing for the Effect of this
30 Resolution; Providing Severability and an Effective Date.

31
32 Maura Ziska, on behalf of Thomas Campaniello, owner of 290 S.
33 County Road, asked if there could be any consideration or abatement
34 of this Assessment due to the fact that several of her client's
35 commercial properties in the area are vacant.

36
37 Town Council President Rosow stated that the Town Council could
38 not do anything about her client's Assessments. There are also
39 homes in Town that are vacant; but, they still have to pay this
40 Assessment.

41
42 Town Manager Elwell added that most of the Town's costs are fixed;
43 relatively little is actually related to the actual amount of material
44 removed from the premises. It is more about providing the service,
45 and divvying the costs up among the properties.

1 **Motion was made by Council Member Kleid, seconded by Council Member Diamond, to**
2 **approve Resolution No. 125-2012. On roll call, the motion carried unanimously.**
3

- 4 2. Worth Avenue Commercial District Improvement Project
5 [Thomas G. Bradford, Deputy Town Manager]
6

7 Deputy Town Manager Bradford provided an overview of the Worth
8 Avenue Commercial District Improvement Project and Assessment.
9

- 10 a. RESOLUTION NO. 126-2012 A Resolution of the Town Council of
11 the Town of Palm Beach, Palm Beach County, Florida, Relating to
12 the Provision of the Worth Avenue Improvement Project; Providing
13 Authority and Definitions; Approving the Final Assessment Rolls;
14 Providing for the Reimposition of the Assessments to Fund the
15 Worth Avenue Improvement Project and Related Maintenance
16 Services; Providing for Collection of the Assessments Pursuant to
17 the Uniform Assessment Collection Act; Providing for the Effect of
18 this Resolution; Providing Severability and an Effective Date.
19

20 **Motion was made by Council Member Pucillo, seconded by Council Member Diamond, to**
21 **approve Resolution No. 126-2012. On roll call, the motion carried unanimously.**
22

- 23 3. Via Fontana Underground Conversion Project
24 [Thomas G. Bradford, Deputy Town Manager]
25

26 Deputy Town Manager Bradford provided an overview of the Via Fontana
27 Underground Conversion Project and Assessment.
28

29 Joseph Vittoria, representing his wife who is the owner of 1616 S. Ocean
30 Blvd, expressed concern over the amount of his assessment. He stated that
31 he received an initial estimate from a private law firm of \$1,000 per year,
32 per land owner; and, his wife signed the petition for the project based upon
33 that estimate. Their assessment is now about \$5,000 per year. He added
34 that, when FP&L came out to do the work, they severed his electrical wire
35 and he was forced to use his generator for the better part of two days.
36 When they came to fix the wire, they spliced it instead of replacing it.
37

38 Deputy Town Manager Bradford responded that there were some
39 problems encountered during construction that did increase the project
40 cost substantially. The Town has made every effort to minimize the
41 additional costs, including offering 20-year financing. He stated that the
42 Town never represented that the estimate was \$1,000 per year, per land
43 owner. The same assessment methodology used for all undergrounding
44 projects was utilized in this assessment; and, these assessments vary from
45 property to property based upon this assessment methodology. Had the

1 residents chosen a binding cost estimate from FP&L, the estimate may
2 have been more accurate.

3
4 Responding to Council President Rosow, Deputy Town Manager Bradford
5 stated that the original project estimate was \$115,000; but, the actual cost
6 was just under \$230,000. The Town does not get any of that \$230,000; we
7 are just a pass through.
8

9 **Council President Rosow requested that Deputy Town Manager assist Mr. Vittoria in**
10 **dealing with FP&L's splicing of his electrical line.**

- 11
12 a. RESOLUTION NO. 127- 2012 A Resolution of the Town Council of
13 the Town of Palm Beach, Palm Beach County, Florida, Relating to
14 the Provision of the Underground Utility Improvements within the
15 Via Fontana Assessment Area; Providing Authority and Definitions;
16 Amending the Initial Assessment Resolution; Approving the Final
17 Assessment Rolls; Providing for the Imposition of the Assessments
18 to Fund the Underground Utility Improvements Within the Via
19 Fontana Assessment Area; Providing for Collection of the
20 Assessments Pursuant to the Uniform Assessment Collection Act;
21 Providing for the Effect of this Resolution; Providing Severability
22 and an Effective Date.
23

24 **Council Member Pucillo requested that Town Manager Elwell and Deputy Town Manager**
25 **take a look at this issue, and whether the Town wants to be in this business anymore.**

26
27 **Motion was made by Council Member Pucillo, seconded by Council Member Kleid, to**
28 **approve Resolution No. 127-2012. On roll call, the motion carried unanimously.**
29

30 **Council President Rosow requested that the Public Works Committee review this matter at**
31 **a future meeting.**

32
33 **Council Member Pucillo responded that the Committee will take up the issue at**
34 **tomorrow's Public Works Committee meeting.**
35

- 36 b. RESOLUTION NO. 128- 2012 A Resolution of the Town Council of
37 the Town of Palm Beach, Palm Beach County, Florida, Approving a
38 Funding Agreement to Memorialize the Terms and Conditions
39 Associated with an Internal Loan to be Provided to the Benefitting
40 Property Owners within the Via Fontana Underground Utilities
41 Assessment Area.
42

43 Deputy Town Manager Bradford provided an overview of the
44 funding agreement.
45

46 **Motion was made by Council Member Pucillo, seconded by Council Member Kleid, to**

1 **approve Resolution No. 128-2012. On roll call, the motion carried unanimously.**

2
3 G. Discussion and Adoption (with changes, if any) of a Tentative Operating Budget,
4 Debt Service Budget, and Budgets for Other Funds for FY13.

5
6 1. RESOLUTION NO. 129-2012 A Resolution of the Town Council of the
7 Town of Palm Beach, Palm Beach County, Florida, Adopting the
8 Tentative General (Operating) Fund, Debt Service Fund and Budgets for
9 Other Funds for the 2012-2013 Fiscal Year.

10
11 **Motion was made by Council Member Kleid, seconded by Council President Pro Tem**
12 **Wildrick, to approve Resolution No. 129-2012. On roll call, the motion carried**
13 **unanimously.**

14
15 H. Second and Final Public Hearing to Adopt the Final Millage Rate and Budgets
16 will be on Wednesday, September 19, 2012, at 5:01 p.m., in the Town of Palm
17 Beach Council Chambers.

18
19 Council President Rosow announced that the second and final public hearing to
20 adopt the final millage rate and budgets will be on Wednesday, September 19,
21 2012, at 5:01 p.m., in the Town of Palm Beach Council Chambers.

22
23 **V. ANY OTHER MATTERS**

24
25 **VI. ADJOURNMENT**

26
27 There being no further business, the September 11, 2012, Special Town Council meeting
28 was adjourned at 5:40 p.m.

29
30
31 APPROVED:

32
33
34
35
36 _____
37 David A. Rosow
38 Town Council President

39
40
41 ATTEST:

42 _____
43 Susan A. Owens, MMC
44 Town Clerk

45
46 _____
Date

TOWN OF PALM BEACH

Town Council Meeting on: October 9, 2012

Section of Agenda

Consent Agenda

Agenda Title

MINUTES: SEPTEMBER 19, 2012

APPROVAL OF THE MINUTES OF THE SPECIAL TOWN COUNCIL MEETING BUDGET
HEARING #2

Presenter

Susan A. Owens, Town Clerk

Supporting Documents

- Minutes of the Special Town Council Meeting Held on September 19, 2012

**MINUTES OF THE SPECIAL TOWN COUNCIL MEETING
HELD ON WEDNESDAY, SEPTEMBER 19, 2012**

I. CALL TO ORDER AND ROLL CALL

The Special Town Council Meeting was called to order at 5:01 p.m. on Wednesday, September 19, 2012, in the Town Council Chambers. On roll call, Council President Pro Tem Wildrick and Council Members Diamond and Kleid were found to be present. Mayor Coniglio, Council President Rosow, and Council Member Pucillo were absent. There was a quorum present.

II. PLEDGE OF ALLEGIANCE

Council President Pro Tem Wildrick led the Pledge of Allegiance.

III. APPROVAL OF AGENDA

Motion was made by Council Member Diamond, seconded by Council Member Kleid, to approve the Agenda. On roll call, the motion carried 3-0, with Council President Rosow and Council Member Pucillo absent.

IV. PUBLIC HEARING ON FINAL MILLAGE RATE AND FY13 BUDGET

A. Proof of Publication

B. Announcement of Proposed Operating Millage Rate

C. Reasons for Proposed Operating Millage Rate Increase from the Rolled-Back Millage Rate

Town Manager Elwell provided an overview of the proposed operating millage rate increase. He stated that the major reasons for this increase are as follows:

1. Increased cost of pension benefits, (\$1,035,548) due primarily to the decisions to grandfather pension-eligible employees and to decrease the defined benefit plan contributions for some general employees;
2. Increased health insurance costs (\$280,272);
3. Increase in the transfer to the OPEB trust (\$276,000); and

4. Increased sewage treatment and disposal costs (\$303,634).

D. Comments and Questions from Public – None

E. RESOLUTION NO. 120-2012 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Adopting the Final Millage Rate and Levying Ad Valorem Taxes for the Fiscal Year Beginning October 1, 2012, and Ending September 30, 2013; Setting Forth Certain Information Regarding the Rolled-Back Millage Rate; Directing the Town Manager or the Finance Director to Adjust the Adopted Millage Rate in the Event of Changes in the Assessment Roll and Taxable Value; Providing an Effective Date.

Motion was made by Council Member Diamond, seconded by Council Member Kleid, to approve Resolution No. 120-2012. On roll call, the motion carried 3-0, with Council President Rosow and Council Member Pucillo absent.

F. RESOLUTION NO. 123-2012 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Adopting a Final Budget and Appropriating Funds for the Fiscal Year Beginning October 1, 2012, and Ending September 30, 2013; Providing for an Effective Date.

Motion was made by Council Member Diamond, seconded by Council Member Kleid, to approve Resolution No. 123-2012. On roll call, the motion carried 3-0, with Council President Rosow and Council Member Pucillo absent.

V. ANY OTHER MATTERS

VI. ADJOURNMENT

There being no further business, the September 19, 2012, Special Town Council meeting was adjourned at 5:06 p.m.

APPROVED:

Robert N. Wildrick
Town Council President Pro Tem

ATTEST:

Susan A. Owens, MMC
Town Clerk

Date

TOWN OF PALM BEACH

Town Council Meeting on: October 9, 2012

Section of Agenda

Consent Agenda

Agenda Title

Approval of Major Matters Considered by the Architectural Commission at its Meeting of September 25, 2012

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Memorandum dated October 2, 2012 from John S. Page, Director of Planning, Zoning and Building
- Minutes of the September 25, 2012 Meeting of the Architectural Commission

TOWN OF PALM BEACH

Information for Town Council Meeting on: October 9, 2012

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: Approval of the Architectural Commission Meeting Minutes of September 25, 2012

Date: October 2, 2012

STAFF RECOMMENDATION

Staff recommends that the Town Council approve the major items that were approved by ARCOM at the regularly scheduled meeting of September 25, 2012.

BOARD OR COMMISSION RECOMMENDATION

The Architectural Commission recommends that the Town Council approve the major items which were considered at the regularly scheduled meeting of September 25, 2012.

GENERAL INFORMATION

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

Attachment

JSP:cmd



MINUTES
ARCHITECTURAL COMMISSION
IN THE
TOWN COUNCIL CHAMBERS
2ND FLOOR, TOWN HALL
360 SOUTH COUNTY ROAD, PALM BEACH
TUESDAY, SEPTEMBER 25, 2012, 9:00 a.m.

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

I. CALL TO ORDER (9:00:53 a.m.)

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

II. ROLL CALL:

Robert J. Vila, Chairman	PRESENT
Nikita Zukov, Vice Chairman	PRESENT
Kenn Karakul, Member	ABSENT (unexcused)
Ann L. Vanneck, Member	PRESENT
Henry Homes III, Member	ABSENT (unexcused)
Richard Sammons, Member	PRESENT
Peter I. C. Knowles II, Member	PRESENT
Martin D. Gruss, Alternate Member	PRESENT
Alexander C. Ives, Alternate Member	ABSENT (unexcused)
Dr. Martin Phillips, Alternate Member	ABSENT (excused)

Let the record reflect that Mr. Gruss was a voting member today.

Staff members present: John S. Page, Director of Planning, Zoning & Building, John Lindgren, Planning Administrator, and Cynthia Delp, Secretary to the Architectural Commission. John C. Randolph, Town Attorney, was not present.

III. PLEDGE OF ALLEGIANCE: (9:01:33 a.m.)

- IV. **APPROVAL OF THE MINUTES FROM THE AUGUST 22, 2012 MEETING: (9:01:49 a.m.)**
MOTION BY MRS. VANNECK FOR APPROVAL OF THE MINUTES.
MOTION SECONDED BY MR. ZUKOV.
MOTION CARRIED UNANIMOUSLY.
- V. **APPROVAL OF THE AGENDA : (9:02:03 a.m.)**
MOTION BY MRS. VANNECK FOR APPROVAL OF THE AGENDA.
MOTION SECONDED BY MR. ZUKOV.
MOTION CARRIED UNANIMOUSLY.
- VI. **ADMINISTRATION OF THE OATH TO PERSONS WHO WISH TO TESTIFY: (9:02:15 a.m.)**
Mrs. Delp administered the oath at this time and throughout the meeting as necessary.
- VII. **OTHER BUSINESS: (9:02:30 a.m.)**
None
- VIII. **PROJECT REVIEW (9:03:06 a.m.)**

A. **MAJOR PROJECTS-OLD BUSINESS:**

B - 047 - 2012 Revisions to previous approval

ARCOM TO MAKE RECOMMENDATION RELATIVE TO VARIANCE(S)

Address: 160 Royal Palm Way

Applicant: 160 Royal Palm LLC (Glenn F. Straub, Manager)

Architect: Rafael A. Rodriguez

Project Description: The subject condominium hotel is currently under renovation pursuant to Town Council in May 2007. The site building has been modified from the original plan which requires approval from ARCOM. The following is a list of proposed changes to the approved plan: 1. Elimination of 2 pool structures and relocation of a pool structure 2. Elimination of mansard roof on the east elevation and addition of mansard roof on north elevation and east guest awning elevation 3. Redesign of landscaping, cabanas and pool terrace area 4. Addition of interior floor above lobby to total 1,486 of which 500 square feet is dining area 5. Addition of parapet to connect east and west stair towers 6. Addition of roof deck lounge on existing roof top of hotel 7. Addition of elevators to be shown on roof plans of function room where previously not shown 8. Elevators #2 and #5 up to roof deck 9. Third floor unit #3 exterior wall shown where previously not shown 10. Entrance stair balustrade changed to cast stone 11. Elevator penthouse #7 now shown where previously not shown 12. Front door design has been redesigned 13. Water table and rustication has been removed 14. New cast stone balustrade at function room parapet wall 15. New pergola at south dining terrace 16. New revised west elevation at function room 17. Exterior balconies extended 3'-6" beyond face of building on North, West courtyard and South courtyard elevations. Variances requested for height and overall height, parking spaces, and to allow construction to be phased

Revised Project Description: The subject condominium hotel is currently under renovation pursuant to the approval of the Town Council in May 2007. The site plan has been modified from the original plan which requires approval from the Town Council and ARCOM. The following is a list of the proposed changes to the approved plan: Elimination of two pool structures and relocation of a pool structure which includes service bar. Relocation of pool restrooms to inside of Function Room Elimination of the mansard roof on the east elevation and keep the existing mansard on the east guest wing elevation in lieu of the parapet that was previously shown on the plans and approved. Relocation of pool equipment and storage to under pool service building. Approval of landscaping, cabanas and pool terrace for the entire site. Addition of plunge pools to the pool terrace area. Addition of interior floor above lobby to total 1,486 square feet of which 500 square feet is dining area (#7 not under ARCOM jurisdiction) Addition of parapet to connect east stair tower to existing approved parapet. Addition of elevator to be shown on roof plan of

Function Room roof where previously not shown. Replace solid parapet on Function Room with balustrade railing. Increase height of doors in main lobby overlooking pool deck by 3 feet. Add a breezeway from the main lobby to Function Room. Add a 7 foot tall hedge with a 42 inch rail on south side of proposed swimming pool to run length of pool deck area. Add pergola on south elevation and extend balconies on north, south and east elevations. Addition of service corridors and expansion of kitchen and laundry room which totals approximately 3,625 square feet. (#15 not under ARCOM jurisdiction) Shift location of approved Function Room 25 feet to the east and add back the 4 of the 6 parking spaces that are lost. The size of the spa facility is decreased from 7,325 square feet to 5,948 square feet which eliminates the need for 2 parking spaces that were lost. Net effect is zero loss of parking spaces. Replace solid concrete railing on stairway on south side of west wing fire escape with precast balustrade railing.

At the June meeting, there was a motion to defer and see each one of these individual requests come in with the approved plans, pictures of existing conditions, and requested changes with supporting information. At the July meeting, there were a series of motions for approval and/or deferral to the August meeting. Deferred items include: The front elevation (porte cochere) which is to be re-designed with piers or double columns and then brought back to ARCOM; the Landscape plan is to return to ARCOM after obtaining final site plan approval from the Town Council; and, detailing of the breezeway from the main lobby to the Function Room to return to ARCOM. At the August meeting, there was a motion to approve, as presented, the southern wall exposure boundary line with the addition of doubling up the number of 14 ft. Traveler Palms that are from the Function Room east, adding Confederate Jasmine of a minimum height of 12 ft. to that wall, and that immediately, the eastern hedge perimeter be treated, fertilized, at least once a week, and be allowed to grow to a height of 16-18 feet, and that all these Traveler Palms are under perpetual maintenance, and the whole property should be under perpetual maintenance, and that it is our recommendation that the Medjool Palms be replaced with Coconuts. There was a second motion relative to the front porte cochere to make these four columns square piers, and that the piers are to align with the wall above, and the applicant is to return next month (Sept.) with a drawing of the piers (effectively a deferral). There was a third motion relative to the south stairs on the west wing, to remain with the original design of the exits, i.e., to not replace the cement with aluminum. The applicant was also asked to address the issue of noise from the A/C equipment at the September meeting.

Please be advised that the applicant's attorney has requested deferral of the remaining issues to the October meeting.

**MOTION BY MRS. VANNECK TO DEFER B-047-2012 TO THE OCTOBER MEETING.
MOTION SECONDED BY MR. ZUKOV.
MOTION CARRIED UNANIMOUSLY.**

[B - 066 - 2012 Demolition and New Residence](#)

Address: 1017 N. Lake Way (note: change of address requested for 342 Garden Road)

Applicant: 1017 North Lake Way, LLC

Architect: Dailey Janssen Architects, Roger P. Janssen

Project Description: Demolition of existing single story residence and hardscape. Proposed CBS construction of new 2-story residence with 5,405 air conditioned square feet with pool, landscape, hardscape and site lighting. Roof: Red flat cement tiles; Building and Trim Color: White

Please note that this project was reviewed at the August meeting, and was deferred to the September meeting to permit re-noticing to include demolition of the existing residence.

Call for disclosure of ex parte communication: Disclosures by Mr. Zukov and Mrs. Vanneck.

ARCHITECTURAL PRESENTATION BY: Roger P. Janssen, Dailey Janssen Architects
LANDSCAPE PRESENTATION BY: Don Skowron

Mr. Janssen presented the demolition report for this 1950's residence together with photos of the existing residence. He indicated that selective landscaping will be relocated and/or removed, and more specifically, that an existing Pigeon Plum and existing Royal Palms will remain. Mrs. Vanneck stressed the requirement for landscape demolition plans. *(It should be noted that Mr. Skowron was not present when this item was called. He arrived much later and presented this landscaping at the end of the agenda.)* Mr. Janssen continued with some minor architectural revisions made since the last presentation.

MOTION BY MR. ZUKOV FOR APPROVAL OF THE ARCHITECTURE AS MODIFIED.

MOTION SECONDED BY MR. KNOWLES.

(NO VOTE AT THIS TIME, BUT AFTER THE FOLLOWING MOTION...)

MOTION CARRIED UNANIMOUSLY.

MOTION BY MR. ZUKOV FOR APPROVAL OF THE DEMOLITION.

MOTION SECONDED BY MR. SAMMONS.

MOTION CARRIED UNANIMOUSLY.

MOTION BY MRS. VANNECK TO MOVE THE LANDSCAPING TO THE END OF THE AGENDA, AND IF NOT, TO THE OCTOBER MEETING.

MOTION SECONDED BY MR. ZUKOV.

MOTION CARRIED UNANIMOUSLY.

[B - 067 - 2012 New Residence](#)

Address: 1840 S. Ocean Boulevard

Applicant: Guy Rabideau as Trustee of the 1840 South Ocean Land Trust U/A/D May 21, 2012

Architect: Dailey Janssen Architects

Project Description: New two-story oceanfront island Classical style home with a covered pool and detached pool house. Roof: Grey Hanson Victorian Concrete Tile; Building and Trim

Color: Off-White

At the August meeting, this project was reviewed and deferred to the September meeting for further study.

Call for disclosure of ex parte communication: Disclosures by several members

ARCHITECTURAL PRESENTATION BY: Roger P. Janssen, Dailey Janssen Architects

LANDSCAPE PRESENTATION BY: Carol Perez, A. Grant Thornbrough & Associates

OTHERS WHO TESTIFIED: Dan Swanson, Contractor/Developer, Natalie Langner, Property Owner

Let the record show that Mr. Janssen brought the model back which had been prepared for last month's meeting. The model was not revised since last month. Revisions were presented digitally.

Mr. Janssen reviewed the architectural changes which had been made since last month in response to comments made at that time: Some changes include a general simplification, reducing the amount of stone detailing on the front elevation; reducing the second floor massing above the first floor wing; roof pitches lowered; and, fenestration changes on the west side of the house. Most members were very pleased with the revisions, though several suggestions were still offered.

It should be noted that though many different versions of the plans were represented in the submitted mini-sets and on screen, Mr. Janssen was advocating for Views 1-7, together with the corresponding Alternate Elevations.

MOTION BY MR. ZUKOV APPROVING VIEW 1 WITH ONLY STONEWORK ON THE COLUMNS, AND VIEW 4 FOR THE WEST ELEVATION.

MOTION RE-STATED BY MR. VILA AND AGREED BY MR. ZUKOV FOR APPROVAL OF THE ARCHITECTURE AS PRESENTED, EXCEPT ON VIEW 4, WHERE THERE SHALL BE ONLY 1 SET OF FRENCH DOORS FROM THE FAMILY ROOM TO THE PATIO INSTEAD OF TWO SETS.

MOTION SECONDED BY MR. KNOWLES.

MOTION CARRIED UNANIMOUSLY.

Ms. Perez presented the revised landscape plan pursuant to comments made last month. Mr. Lindgren noted that this is preliminary landscape approval only, but he requested that the commission review and perhaps approve the site walls today. These include the north and south site retaining walls, and the seawall which will be raised 4-5 feet. Dan Swanson testified relative to the retaining walls.

MOTION BY MR. ZUKOV FOR APPROVAL OF THE ADDITION OF (APPROX.) 6 FT. HIGH RETAINING WALLS AROUND THE PROPERTY AS PRESENTED.

MOTION SECONDED BY MR. SAMMONS.

MOTION CARRIED UNANIMOUSLY.

The property owner, Natalie Langner, thanked the commission for their input which she felt created a better, simplified design.

The applicant is to return in the future with the final landscaping. (*New ARCOM application to be filed for same.*)

B. [MAJOR PROJECTS-NEW BUSINESS \(9:47:06 a.m.\)](#)

[B - 073 - 2012 Demolition and New Residence](#)

Address: 200 Eden Road

Applicant: Act II Properties, LLC

Architect: SKA Architect + Planner/Patrick W. Segraves, AIA

Project Description: Demolition of existing two-story home. Construction of new two-story British West Indies style home to be approximately 6,600 square feet. Home will consist of four bedrooms, 5.5 baths, living room, family room, dining room, kitchen, library, loggia and a three-car garage. Final landscape will also be included. Roof: Patina green flat concrete tile; Building color: Cream; Trim color: White; Shutter color: Dark Green

Call for disclosure of ex parte communication: Disclosures by several members

ARCHITECTURAL PRESENTATION BY: Patrick W. Segraves, SKA Architect + Planner
LANDSCAPE PRESENTATION BY: Krent Wieland

Mr. Segraves provided the demolition report with interior and exterior photos for this 1949 John Volk designed home. He noted that all vegetation, structures and landscape will be removed from the site. Mr. Wieland testified that there are no existing plants or trees of significance on the property.

**MOTION BY MR. ZUKOV FOR APPROVAL OF THE DEMOLITION WITH THE
TYPICAL CAVEATS FOR SODDING AND IRRIGATING.
MOTION SECONDED BY MR. GRUSS.
MOTION CARRIED UNANIMOUSLY.**

Mr. Segraves continued with the presentation for the proposed new home in accordance with the submitted plans and as described above. The commission took exception to the placement of the generator and a/c equipment very close to the dining patio. As a result, Mr. Segraves stated that the generator will be relocated. Mr. Wieland presented the landscape/hardscape prompting several comments: taller landscape material recommended along the road; make the planting more undulating and interesting; the wall presented by Mr. Wieland does not match the presentation plans; and, suggestion to place the generator with the pool equipment.

**MOTION BY MR. ZUKOV TO APPROVE THE ARCHITECTURE, BUT TO RETURN
WITH THE FINAL LANDSCAPE (EFFECTIVELY A DEFERRAL TO OCTOBER),
WITH THE COMMENTS THAT WERE MADE INCLUDING A NEW LOCATION FOR
THE GENERATOR, AND REVISIONS TO THE LANDSCAPE ALONG NORTH OCEAN
BOULEVARD.
MOTION SECONDED BY MR. GRUSS.
MOTION CARRIED UNANIMOUSLY.**

[B - 075 - 2012 New Residence](#)

Address: 2266 Ibis Isle Road West

Applicant: Bruce W. and Tamara Watkins

Architect: Clemens Bruns Schaub

Project Description: A new tropical modern style lakefront home with courtyard pool. It is mostly ground floor with covered open air breezeways, dining and living areas. The second floor consists of an office, studio and full bath. Roof: Weathered Grey wood shingles; Building color: Vanilla Marblecote; Trim color: White

Call for disclosure of ex parte communication: Disclosures by Mr. Zukov and Mrs. Vanneck.

ARCHITECTURAL PRESENTATION BY: Clemens Bruns Schaub

Mr. Schaub presented the architecture and simple landscaping pursuant to the submitted plans and as described above for this courtyard home. The generator came into question, but Mr. Lindgren noted that the plans indicate “future generator”, which will have to meet code.

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

[B - 077 - 2012 New Residence](#)

Address: 127 Reef Road

Applicant: Casa de Playa, LLC

Architect: Smith and Moore Architects, Inc., Peter Papadopoulos

Project Description: New 2-story Bermuda styled home on existing vacant lot. Final landscape and hardscape. Roof: White thick butt concrete tile; Building and Trim Color: White; Shutter color: Grey Blue

Call for disclosure of ex parte communication: Disclosures by several members

ARCHITECTURAL PRESENTATION BY: Peter Papadopoulos, Smith and Moore Architects

LANDSCAPE PRESENTATION BY: Peter Papadopoulos, Smith and Moore Architects

Mr. Papadopoulos provided the presentation in accordance with the submitted plans and as described above. He stated that the proposed new home is predominantly a one story home with a two story master suite. It is a simple 3700 sq. ft. (under air) Bermuda style residence with a rectangular pool in the rear. The generator and pool equipment, behind walls, will be placed on the east side of the home, and a/c equipment on the west. The project received very positive comments.

**MOTION BY MR. ZUKOV FOR APPROVAL AS PRESENTED.
MOTION DIED FOR LACK OF A SECOND.**

Under discussion of the landscaping, Mr. Papadopoulos agreed to add 5 (five) Coconut Palms on either side to help screen the second floor.

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

Let the record show that there was a short recess from 10:30 a.m. to 10:45 a.m.

[B - 078 - 2012 Modifications](#)

ARCOM TO MAKE RECOMMENDATION RELATIVE TO VARIANCE

Address: 191 Bradley Place

Applicant: Mr. Nelson Fox

Architect: Smith and Moore Architects Inc.

Project Description: Addition of wall height and gable end barrel tile roof to existing north wing dining area, window and door replacement and reconfiguration. *Variance for height and overall height requested.*

Call for disclosure of ex parte communication: Disclosures by several members

Prior to the presentation, Mr. Lindgren read 14 pieces of correspondence from neighbors into the record wherein they express their concerns relative to this project: quality of life, noise, cooking fumes, number of door openings, creation of a “bar” rather than a restaurant, out of order customers on the sidewalk, parking for staff and customers, etc. (All correspondence on file.)

ARCHITECTURAL PRESENTATION BY: Harold Smith, Smith and Moore Architects Inc.
ATTORNEY PRESENT FOR APPLICANT: Maura Ziska for the Meat Market
OTHERS WHO TESTIFIED: M. Timothy Hanlon, on behalf of Il Lugano, David Tornek, one of restaurant owners

Ms. Ziska reminded the commission that the commission should only concern itself with the architecture of the project rather than the other issues reflected in the letters which were read into the record. Those issues are reserved for deliberation by the Town Council. Ms. Ziska reviewed the variance requests for height and overall height. She indicated that additional doors and ceiling height are being requested merely to bring more light into the restaurant, and that many of the new proposed doors can be fixed to address neighbors' concerns.

Mr. Smith continued with the architectural presentation in accordance with the submitted plans. He stated that they propose to raise the dining room ceiling from 12 ft.-1" to 14 ft.-1". Three sets of doors will have to be operable to meet egress requirements. There are no plans to increase the square footage of the restaurant; no plans to request more seating; and, no plans to request outdoor seating. The flat gravel roof will be changed to a barrel tile roof when raised. The exterior color will change from pink to ivory. Signage will remain in the same location, but lettering will be changed.

Mr. Tornek testified to the proposed hours of operation.

Attorney Hanlon asked the commission to consider the effect on the neighborhood due to those concerns expressed in the aforementioned letters from surrounding property owners. He asked for conditions to be placed regarding fixed doors.

Most members were quite pleased with the architectural improvements and reminded others that ARCOM can only consider the architecture.

MOTION BY MR. ZUKOV THAT IMPLEMENTATION OF THE PROPOSED VARIANCE WILL NOT CAUSE NEGATIVE ARCHITECTURAL IMPACTS TO THE SUBJECT PROPERTY.

MOTION SECONDED BY MR. SAMMONS.

MOTION CARRIED 5-1, WITH MR. GRUSS OPPOSING.

MOTION BY MR. ZUKOV THAT THIS IS A GREAT IMPROVEMENT TO THE ARCHITECTURE OF THAT BUILDING; WE HAVE TO CLOSE ALL THE DOORS AND THEY CANNOT BE OPERABLE...THEY HAVE TO BE FIXED DOORS, EXCEPT FOR THE MAIN ENTRANCE DOOR, WHICH DOES NOT HAVE TO HAVE PANIC HARDWARE; THEN THE NORTH DOOR, WHICH MUST HAVE PANIC HARDWARE WITH AN EMERGENCY ALARM; AND THE SAME ON THE SOUTHERNMOST WESTERN DOOR, PANIC HARDWARE ONLY. ALL THE OTHERS ARE CLOSED.

MOTION SECONDED BY MR. SAMMONS.

MOTION CARRIED 5-1, WITH MR. GRUSS OPPOSED.

Mr. Page noted that this issue will be heard at the October 10th Town Council meeting.

Mr. Gruss questioned the authority of ARCOM relative to impact upon neighbors. He felt that turning a "blind eye" to the issues presented today was ARCOM not doing its duty.

[B - 079 - 2012 Additions](#)

Address: 2250 Ibis Isle Road East

Applicant: Terry and Beth Levine

Architect: The Pandula Architects, Inc.

Project Description: Approximately 64 sq. ft. powder room addition at front elevation of existing residence, located under existing roof of entry porch; approximately 250 sq. ft. master sitting room addition at rear elevation (southwest corner) of existing residence; existing one story building height, hip roof and roof pitch to match existing; All finishes, colors and textures are to match existing.

Call for disclosure of ex parte communication: No disclosures

ARCHITECTURAL PRESENTATION BY: Eugene Pandula, The Pandula Architects, Inc.

Mr. Pandula provided the presentation in accordance with the submitted plans and as described above for two very small additions. The commission called attention to the fact that the presentation documents do not show mullions on the windows.

MOTION BY MR. SAMMONS FOR APPROVAL AS PRESENTED, WITH THE COMMENT REGARDING THE MULLIONED WINDOWS.

MOTION SECONDED BY MR. ZUKOV.

MOTION CARRIED UNANIMOUSLY.

[B - 080 -2012 Demolition](#)

Address: 305 Mediterranean Road

Applicant: Stephen Murray

Architect: Environment Design Group

Project Description: Demolition of existing one-story residence. Removal of existing vegetation on site. Addition of new perimeter hedge to screen lot.

Call for disclosure of ex parte communication: Disclosure by Mr. Vila

ARCHITECTURAL PRESENTATION BY: Dustin Mizell, Environment Design Group

LANDSCAPE PRESENTATION BY: Dustin Mizell, Environment Design Group

ATTORNEY PRESENT: Maura Ziska for the applicant

OTHERS WHO TESTIFIED: Ray Kramer, 1511 North Lake Way

Mr. Mizell showed interior and exterior photos of the existing 1951 one-story home with 1712 sq. ft. As for existing landscaping, there are no species of value or sustainability, except for the large shade trees on the north which will be kept during construction. All other landscaping will be removed. A Clusia hedge will be added on the south property line, along with sodding and irrigating the entire property.

There was a request that the hedge be planted at a minimum of 6 ft. in height.

MOTION BY MRS. VANNECK FOR APPROVAL OF THE DEMOLITION WITH THE REQUIREMENT FOR 6 FT. HEDGES.

MOTION SECONDED BY MR. SAMMONS.

Mr. Kramer expressed his concern about this demolition and the next request for demolition, and the plan by the owner to create a large estate which Mr. Kramer felt would change the character of the neighborhood.

Ms. Ziska, representing the Murrays, stated that the Murrays plan to tear down the two small houses, but the land will be vacant only in the short term. They plan to construct a guest house/garage to be constructed on the property, but those plans are not yet formulated.

MOTION CARRIED UNANIMOUSLY.

[B - 081 - 2012 Demolition](#)

Address: 1510 North Lake Way

Applicant: Stuart and Hilary Dweck

Architect: Environment Design Group

Project Description: Demolition of existing one-story residence. Removal of existing vegetation on site. Addition of new perimeter hedge to screen lot. Demolition of swimming pool.

Call for disclosure of ex parte communication: No disclosures

ARCHITECTURAL PRESENTATION BY: Dustin Mizell, Environment Design Group

LANDSCAPE PRESENTATION BY: Dustin Mizell, Environment Design Group

Mr. Mizell showed interior and exterior photos of the existing 1954 residence. As for landscape, the plan is to remove it all and continue the 6 ft. hedge around the property. There was concern about the large amount of hedge with a request to add plantings with some type of interest. Mr. Mizell indicated that the interest will be added during site development.

MOTION BY MR. ZUKOV FOR APPROVAL OF THE DEMOLITION, WITH THE TYPICAL CAVEATS FOR SODDING AND IRRIGATING.

MOTION SECONDED BY MR. SAMMONS.

MOTION CARRIED UNANIMOUSLY.

C. [MINOR PROJECTS - OLD BUSINESS \(11:45:28 a.m.\)](#)

None

D. [MINOR PROJECTS - NEW BUSINESS \(11:45:33 a.m.\)](#)

[A - 037 - 2012 Exterior Improvements](#)

Applicant: JP Morgan Chase Bank (Corey Lenga)

Address: 411 S. County Road

Architect: BDG Architects

Project Description: Pressure wash, repair cracks and repaint exterior building finish, pressure wash and repaint exterior banding and trim, and remove existing fabric on awnings and re-skin with "Chase Blue" fabric. The existing windows will be removed and replaced with high impact and glazing and will match existing window style.

Call for disclosure of ex parte communication: No disclosures

ARCHITECTURAL PRESENTATION BY: Danlys Hernandez, BDG Architects

Ms. Hernandez provided the presentation in accordance with the submitted plans and as described above. The existing off-white exterior with red shutters is now proposed in latte with creamy trim and blue shutters.

MOTION BY MR. SAMMONS FOR APPROVAL AS PRESENTED.
MOTION SECONDED BY MR. ZUKOV.
MOTION CARRIED UNANIMOUSLY.

[A - 038 - 2012 Exterior improvements](#)

Applicant: Mr. and Mrs. Ron Silverman

Address: 1440 North Ocean Way

Architect: Timothy Hullihan

Project Description: Change roof material from flat concrete tile to standing seam metal.

Restoration of the house's original Caribbean roof edge detailing is also proposed. The exterior is to be repainted.

Call for disclosure of ex parte communication: Disclosure by Mr. Vila

ARCHITECTURAL PRESENTATION BY: Timothy Hullihan

Mr. Hullihan presented a restoration of the outriggers and a new white standing seam roof.

MOTION BY MR. SAMMONS FOR APPROVAL AS PRESENTED.
MOTION SECONDED BY MR. ZUKOV.
MOTION CARRIED 5-1, WITH MRS. VANNECK OPPOSED.

[A - 039 - 2012 Carport](#)

Address: 340 Polmer Park

Applicant: Robert Fromer

Contractor: American Awning Co., Joseph Mattei

Project Description: Install 3-car parking shelter (Carport); color to be green; North exposure will be covered by hedges

Call for disclosure of ex parte communication: No disclosures

ARCHITECTURAL PRESENTATION BY: Joe Mattei, American Awning co.

Mr. Mattei presented a 20 ft. x 30 ft. carport which will be hidden by hedges. The color choices for the carport are dark green or emerald green.

MOTION BY MR. ZUKOV FOR APPROVAL OF A DARK GREEN CARPORT.
MOTION SECONDED BY MR. SAMMONS.
MOTION CARRIED UNANIMOUSLY.

Let the record show that Mr. Mattei returned, after conferring with his customer, to ask permission for either of the shades of green.

**MOTION BY MR. ZUKOV FOR APPROVAL OF EITHER GREEN COLOR.
MOTION SECONDED BY MR. SAMMONS.
MOTION CARRIED UNANIMOUSLY.**

MAJOR PROJECTS-OLD BUSINESS: (CONTINUED)

B - 066 - 2012 Demolition and New Residence (continued)

Address: 1017 N. Lake Way (note: change of address requested for 342 Garden Road)

Applicant: 1017 North Lake Way, LLC

Architect: Dailey Janssen Architects, Roger P. Janssen

Project Description: Demolition of existing single story residence and hardscape. Proposed CBS construction of new 2-story residence with 5,405 air conditioned square feet with pool, landscape, hardscape and site lighting. Roof: Red flat cement tiles; Building and Trim Color: White

Chairman Vila re-called this item to allow presentation of the landscape/hardscape.

LANDSCAPE PRESENTATION BY: Don Skowron

Mr. Skowron stated that at the previous meeting, there were two comments made...to add more Coconuts and to illustrate the hedge properly within the presentation. In addition to the revised presentation responding to the comments from last month, other minor modifications were also made to the plan. Mr. Skowron also presented the site lighting plan including low profile traffic rated fixtures at the driveway, path lighting, and, up lights and down lights as presented.

Under commission comments, it was requested that the view of the chimney be mitigated by the addition of more landscaping, that the pool cabana be further screened; and, up light the Coconuts, rather than down light.

MOTION BY MRS. VANNECK FOR APPROVAL WITH CONDITIONS:

- 1) That an extra Coconut Palm or two be added to the northwest corner to screen the second story chimney;**
- 2) That a minimum of two Seagrape trees of at least 12 ft. height and one Coconut Palm be added to the south elevation screening the pool cabana; and,**
- 3) That the two down-lights in the Coconut Palms be eliminated with a preference to be up-lit.**

MOTION SECONDED BY MR. ZUKOV.

MOTION CARRIED UNANIMOUSLY.

IX. COMMUNICATIONS FROM CITIZENS (3 MINUTE LIMIT PLEASE) (12:07:57 a.m.)

X. COMMENTS OF THE ARCHITECTURAL COMMISSION AND DIRECTOR OF PLANNING, ZONING AND BUILDING DEPARTMENT: (12:08:00 a.m.)

Mr. Page reported that one of the projects heard last month, 229 Ridgeview Drive, has been appealed by the neighbor, Mr. Paul Rampell. The appeal will be heard at the Town Council meeting on October 10th.

There was a brief discussion relative to ARCOM's authority when rendering opinions relative to variances.

XI. ADJOURNMENT: (12:13:07 a.m.)

**MOTION BY MRS. VANNECK TO ADJOURN THE MEETING AT 12:22 P.M.
THERE WAS NO SECOND, BUT THE MOTION RECEIVED UNANIMOUS SUPPORT.**

The next meeting of the Architectural Commission will be held on Wednesday, October 24, 2012 at 9:00 a.m. in the Town Council Chambers, 2nd floor, Town Hall, 360 South County Road, Palm Beach.

Respectfully submitted,

Robert J. Vila, Chairman
ARCHITECTURAL COMMISSION

cmd

TOWN OF PALM BEACH

Town Council Meeting on: October 9, 2012

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 133-2012 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Adopting the Updated Comprehensive Emergency Management Plan for the Town of Palm Beach.

Presenter

Jay Boodheshwar, Director of Recreation and Special Projects

Supporting Documents

- Memorandum Dated September 28, 2012, from Jay Boodheshwar, Director of Recreation and Special Projects
- Resolution No. 133-2012
- Letter Dated September 26, 2012, from Bill Johnson, Director of Palm Beach County Division of Emergency Management

TOWN OF PALM BEACH

Information for Town Council Meeting on: October 9, 2012

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: Jay Boodheshwar, Director of Recreation and Special Projects

Re: Adoption of Comprehensive Emergency Management Plan
Resolution No. 133-2012

Date: September 28, 2012

STAFF RECOMMENDATION

Staff recommends Town Council approve Resolution No. 133-2012 adopting the Town of Palm Beach Comprehensive Emergency Management Plan (CEMP), dated May 2012, as required by the Palm Beach County Division of Emergency Management.

GENERAL INFORMATION

At the February 15, 2011, Town Council meeting, a resolution was approved accepting a \$50,000 non-matching reimbursable grant from Palm Beach County to revise the Town's current CEMP. The origination of the grant funding was through the Ft. Lauderdale Urban Area Security Initiative (UASI), but Palm Beach County administered the grant to the Town.

At the October 11, 2011, Town Council meeting, a contract was awarded to All Hands Consulting to work with Town staff and the appropriate County and State agencies to prepare the Town's updated CEMP. Shortly after the contract award, a project team was formed with representation from all Town departments. The CEMP revision project was led by Jay Boodheshwar, with support from Mike Galvin, Cheryl Kleen, Karen Temme, Spencer Wilson, Rick Howe, Gino Silvestri, Darrell Donatto, Brodie Atwater, Roger Lane, Eric Brown, Doug Terry, Rod Gardiner, John Page, Jeff Taylor, Kathryn Dyson, and Amy Wood. Town Manager Peter Elwell, Deputy Town Manager Thomas Bradford, and all Department Directors not directly involved on the project team also provided input.

Early in the process, staff met with County officials to ensure our new plan would contain the items required for compliance with CEMP development guidelines. Several focus group meetings were held with project team members and numerous drafts were developed, all with a goal of reducing the current plan to one that is more user-friendly and less voluminous.

The updated plan is structured as follows:

BASIC PLAN

- I. Introduction
- II. Situation
- III. Concept of Operations
- IV. Responsibilities
- V. Financial Management
- VI. Attachments

ANNEXES

- I. Mitigation
- II. Preparedness
- III. EOC Position Task Sheets
- IV. Recovery
- V. Continuity of Operations (COOP)
- VI. Storm Emergency Response Plan (SERP)

A document overview meeting was held with key Town staff in early May to familiarize everyone with the contents and structure of the updated plan. A tabletop exercise with key staff and County officials was held in early August to test the plan, with specific focus on the SERP.

A “crosswalk” review of the updated plan was completed by the County during the summer months. Minor changes were made in September 2012, to ensure compliance with County standards. Final approval was received from the Palm Beach County Division of Emergency Management on September 26, 2012.

SPECIAL CONSIDERATIONS

The CEMP (including all annexes) is 422 pages. Complete copies are available for review in the Town Manager’s Office and on the Town’s website. To keep the back-up for the October 9 Town Council meeting manageable, a complete copy is not included with this memorandum.

FUNDING/FISCAL IMPACT

There is no fiscal impact. The Town will be reimbursed 100% of the out-of-pocket cost of this project.

TOWN ATTORNEY REVIEW

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

Attachments

c: Thomas G. Bradford, Deputy Town Manager
Department Directors
CEMP Project Team

RESOLUTION NO. 133-2012

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF
PALM BEACH, PALM BEACH COUNTY, FLORIDA, ADOPTING
THE UPDATED COMPREHENSIVE EMERGENCY MANAGEMENT
PLAN FOR THE TOWN OF PALM BEACH.**

* * * * *

WHEREAS the potential exists for a variety of emergencies of a destructive nature to affect the Town of Palm Beach; and

WHEREAS, in order to ensure that preparations of the Town would be adequate to deal with such disasters as may occur and to protect the public peace, health and safety, and to preserve the lives and property of the people of the Town of Palm Beach and infrastructure within the Town, a municipal Comprehensive Emergency Management Plan (CEMP) has been developed to guide the Town's response;

WHEREAS, Chapter 252.38, F.S. and Rule 9G (FAC) requires the Palm Beach County Division of Emergency Management to review and approve all municipal CEMPs; and

WHEREAS, the Palm Beach County Division of Emergency Management has provided the Town notice on September 26, 2012, stating the Town's CEMP meets compliance criteria and is therefore approved; and

WHEREAS, the Town of Palm Beach CEMP, now meeting Palm Beach County criteria, must be adopted by resolution;

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 Comprehensive Emergency Management Plan, a copy of which is attached hereto as Exhibit A, shall be and hereby is adopted, and the Emergency Management Organizational Structure created therein using the National Incident Management System is approved by this adoption.

Section 2. The Emergency Management Organizational Structure created in the attached Comprehensive Emergency Management Plan shall be led by the Town Manager, who will serve as Incident Commander during emergencies requiring activation of the Emergency Operations Center.

Section 3. The Town Manager shall be directly responsible for the organization, administration, and operation of the Emergency Operations Center in compliance with the Town of Palm Beach Comprehensive Emergency Management Plan and following the National Incident Management System.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 9th day of October, 2012.

Gail L. Coniglio, Mayor

David A. Rosow, Town Council President

Robert N. Wildrick, Town Council President Pro Tem

William J. Diamond, Town Council Member

ATTEST:

Richard M. Kleid, Town Council Member

Susan Owens, MMC Town Clerk

Michael J. Pucillo, Town Council Member



**Department of Public Safety
Division of Emergency Management**

20 South Military Trail
West Palm Beach, FL 33415
(561) 712-6400
FAX: (561) 712-6464
www.pbcgov.com



**Palm Beach County
Board of County
Commissioners**

Shelley Vana, Chair

Steven L. Abrams, Vice Chairman

Karen T. Marcus

Paulette Burdick

Burt Aaronson

Jess R. Santamaria

Priscilla A. Taylor

County Administrator

Robert Weisman

*"An Equal Opportunity
Affirmative Action Employer"*

September 26, 2012

Mr. Jay Boodheshwar, Director of Recreation and Special Projects
Town of Palm Beach
360 South County Road
Palm Beach, Florida 33480

Dear Mr. Boodheshwar,

In accordance with the provisions of Chapter 252.38, F.S. and Rule 9G (FAC), the Palm Beach County Division of Emergency Management has completed its review of the Town of Palm Beach Comprehensive Emergency Management Plan (CEMP) dated May, 2012. We have determined that your plan is coordinated and consistent with the Palm Beach County CEMP and meets the Palm Beach County Municipal CEMP criteria.

The approved plan must now be adopted by resolution of the Town Council before it becomes the CEMP for the Town of Palm Beach.

If you have any questions or need additional information regarding the plan's approval, please contact Mary Blakeney at (561) 650-9147 or by email: mblakene@pbcgov.org.

Sincerely,

Bill Johnson, RN
Director
Division of Emergency Management

TOWN OF PALM BEACH

Town Council Meeting on: October 9, 2012

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 134-2012 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Purchase of Twenty (20) New Golf Cars and One (1) New Utility Vehicle at a Cost of \$84,647.80 from Club Car, Inc., for Use at the Par 3 Golf Course; Authorizing the Town Manager to Take Further Actions Necessary to Complete the Purchase.

Presenter

Jay Boodheshwar, Director of Recreation and Special Projects

Supporting Documents

- Memorandum Dated September 28, 2012, from Jay Boodheshwar, Director of Recreation and Special Projects
- Resolution No. 134-2012
- Exhibit A - Club Car Proposal

TOWN OF PALM BEACH

Information for Town Council Meeting on: October 9, 2012

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: Jay Boodheshwar, Director of Recreation and Special Projects

Re: Purchase Agreement with Club Car, Inc.
Resolution No. 134-2012

Date: September 28, 2012

STAFF RECOMMENDATION

Staff recommends Town Council approve Resolution No. 134-2012, authorizing the Town Manager to purchase twenty (20) new golf cars and one (1) new utility vehicle at a cost of \$84,647.80 from Club Car, Inc., for use at the Palm Beach Par 3 Golf Course.

GENERAL INFORMATION

The current fleet of golf cars used at the Par 3 Golf Course is in need of replacement due to quicker than expected wear and tear. We are near completion of the third year of a four year lease with Club Car. Staff has determined that it would be in the Town's best interest to either enter into a new three year lease agreement in October 2012 for a fleet of new cars or purchase them outright, instead of finishing the fourth year of the lease. We have received a proposal from Club Car for both of these options, with no penalty for ending the current agreement early. The proposal also includes a variety of discounts.

There are 15 golf cars and 1 range utility vehicle in the current leased fleet, all of which will be out of warranty after the completion of year three of the existing lease. These vehicles are expected to give us more maintenance troubles in the year ahead. We have already experienced numerous maintenance issues, most of which have been covered by the warranty. Anticipated out of warranty repairs are expected to exceed \$5,000 in FY13 if we continue using this fleet for another year. In addition to the fleet of 15 cars, we also lease an additional 10 cars during the peak operating months to meet customer demand. This is done on a yearly basis through a separate agreement.

To ensure the Town achieves the greatest value, staff completed a lease vs. purchase analysis. A total of 20 new golf cars and 1 new range utility vehicle were used in the analysis, as staff has determined that more cars are needed on a year-round basis, due to higher demand during the summer months. Only 5 additional seasonal cars (leased) will be used during our peak months going forward. The analysis revealed that purchasing the next fleet of cars would result in a long-term net savings to the Town of \$22,365.16, due to the trade-in/re-sale value we would

have in the cars after three years of use. Therefore, staff has recommended we purchase the next fleet. Please see spreadsheet below for more details.

PURCHASE OPTION		Per Cart	Total
20	New 2013 Gas Carts	\$3,889.20	\$77,784.00
1	New 2013 Utility Vehicle	\$6,863.80	\$6,863.80
		Total Cost	\$84,647.80
TRADE AFTER YEAR 3			
20	Estimated Re-Sale Value of Gas Carts	\$1,800.00	\$36,000.00
1	Estimated Re-Sale Value of Utility Vehicle	\$3,500.00	\$3,500.00
		Total Trade Equity	\$39,500.00
Net Purchase Cost after Re-Sale			\$45,147.80
3 YEAR LEASE OPTION		Per Cart/Per Mo	Annual Total
20	New 2013 Gas Carts	\$85.32	\$20,476.80
1	New 2013 Utility Vehicle	\$168.96	\$2,027.52
		Total Cost for 3 Years	\$67,512.96
Net Savings to Purchase vs. Lease			\$22,365.16

After researching alternative brands, staff has found that Club Car is the only manufacturer that we are aware of that offers golf carts with aluminum frames, which is important in the salty environment of the Par 3 Golf Course. Therefore, the purchase agreement with Club Car took place through a sole source procurement process. Pricing was verified and is in accordance with the National IPA contract, which was competitively bid.

FUNDING/FISCAL IMPACT

Sufficient funds have been included in the FY2013 budget to fully cover the \$84,647.80 purchase.

PURCHASING REVIEW

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

TOWN ATTORNEY REVIEW

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

Attachments

c: Jane Struder, Director of Finance
Lynda Cummings, Purchasing Agent
Tony Chateauvert, Golf Manager

RESOLUTION NO. 134-2012

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING THE PURCHASE OF TWENTY (20) NEW GOLF CARS AND ONE (1) NEW UTILITY VEHICLE AT A COST OF \$84,647.80 FROM CLUB CAR, INC., FOR USE AT THE PAR 3 GOLF COURSE; AUTHORIZING THE TOWN MANAGER TO TAKE FURTHER ACTIONS NECESSARY TO COMPLETE THE PURCHASE.

* * * * *

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

Section 1. A purchase of twenty (20) new 2013 DS Gasoline Model Golf Cars and one (1) new 2013 Turf 1 Gasoline Model Utility Vehicle from Club Car, Inc. in the amount of \$84,647.80, is hereby approved, as outlined in Exhibit A.

Section 2. The Town Manager is hereby authorized to complete the purchase on behalf of the Town of Palm Beach for twenty (20) golf cars and one (1) utility vehicle for use at the Par 3 Golf Course; and take further actions as may be necessary to complete said purchase.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 9th day of October, 2012.

Gail L. Coniglio, Mayor

David A. Rosow, Town Council President

Robert N. Wildrick, Town Council President Pro Tem

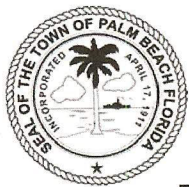
William J. Diamond, Town Council Member

ATTEST:

Richard M. Kleid, Town Council Member

Susan Owens, MMC Town Clerk

Michael J. Pucillo, Town Council Member



**TOWN OF PALM BEACH
REQUEST FOR QUOTATION
RFQ No. 96-2012**

Purchase of Twenty (20) Club Car Golf Cars and One (1) Utility Vehicle

INTENT AND SCOPE

It is the intent to obtain pricing which covers and includes all required equipment and freight, necessary for and reasonably incidental for full and complete execution of this purchase.

SCHEDULE OF BID ITEMS

The undersigned as bidder does declare that no other persons other than the bidder herein named has any interest in this bid or in the contract to be taken, and that it is made without any connection with any other person or persons making bid for the same article, and is in all respects fair and without collusion or fraud.

The undersigned further declares that he has carefully examined the specifications and is thoroughly familiar with its provisions and with the quality type and grade of materials called for therein.

The undersigned further declares that he proposes to furnish the equipment called for within the specified time for the following price:

1. TERMS		2. F.O.B.		3.SHIPMENT VIA		4. QUOTATION VALID UNTIL	
Net 30		DESTINATION					
Item	Lot 1 - Description /Specifications	Qty	Unit	Unit Cost	Extended Cost		
1	NEW, 2013 CLUB CAR DS GASOLINE MODEL GOLF CARS, EQUIPPED AS FOLLOWS: CANOPY TOP SCUFF GUARDS SWEATER BASKET BAGWELL PROTECTOR PREMIUM TREAD TIRES COLOR: DARK GREEN	20	EA	\$6,750 ⁰⁰	\$135,000 ⁰⁰		
	DISCOUNT	20	EA	(\$2,835 ⁰⁰) (\$300⁰⁰)	(\$56,700 ⁰⁰) (\$4,500⁰⁰)		
				TRADE SURPLUS		TOTAL LOT 1 \$73,800 ⁰⁰	

Company Name: CLUB CAR LLC

Authorized Signature: David Kelly

Lot 1A Golf Car Optional Equipment					
Item	Description /Specifications	Qty	Unit	Unit Cost	Extended Cost
3	WHEEL COVERS	20	EA	\$ 56 ⁰⁰	\$ 1120 ⁰⁰
4	NUMBER DECALS (2 PER CAR)	20	SET	\$ 18 ⁰⁰	\$ 360 ⁰⁰
	DISCOUNT	20	EA	(\$ 14.80)	(\$ 296 ⁰⁰)
	+ FREIGHT			\$ 140.00	\$ 2,800 ⁰⁰
	TOTAL LOT 1A				\$ 3,984 ⁰⁰

Item	Lot 2 Description /Specifications	Qty	Unit	Unit Cost	Extended Cost
5	NEW 2013 CLUB CAR TURF 1 GASOLINE MODEL UTILITY VEHICLE EQUIPPED FOR DRIVING RANGE USAGE	1	EA	\$ 7,356 ⁰⁰	\$ 7,356 ⁰⁰
	DISCOUNT	1	EA	(\$ 1,471.20)	(\$ 1,471.20)
	TRADE SURPLUS			\$ 1,078.60	\$ 4,806.20
	TOTAL LOT 2				\$ 4,806.20

Lot 2A Utility Car Optional Equipment					
Item	Description /Specifications	Qty	Unit	Unit Cost	Extended Cost
6	HEAVY DUTY SUSPENSION	1	EA	\$ 53 ⁰⁰	\$ 53 ⁰⁰
7	DRIVING RANGE ENCLOSURE	1	SET	\$ 2,075 ⁰⁰	\$ 2,075 ⁰⁰
8	RANGE PICKER BUMPER MOUNT	1	EA	\$ 199 ⁰⁰	\$ 199 ⁰⁰
	DISCOUNT	1	EA	(\$ 465.40)	(\$ 465.40)
	+ FREIGHT			\$ 196.00	\$ 196.00
	TOTAL LOT 2A				\$ 2,057.60

TOTAL LOTS: 1, 1A, 2 AND 2A					\$ 84,647.80
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REMARKS: PRICING IS BASED ON CLUB CAR LLC PAYING OFF THE TOWN OF PALM BEACH'S CURRENT GOLF CAR CASE BASED ON PAYMENTS BEING CURRENT THRU 10/31/12

Company Name: CLUB CAR LLC

Authorized Signature: David Kelly

The Proposer certifies that this proposal is submitted in accordance with the specification in its entirety and with full understanding of the conditions governing this RFQ. The undersigned representative submits this proposal and certifies that they are an authorized representative of the Proposer who may legally bind the Proposer.

Firm: CLUB CAR LLC

*Signature: David Kelly Name/Title: DAVID KELLY / TERRITORY MGR.

Address: 3375 ALL AMERICAN BLVD. ORLANDO, FL. Zip: 32810

Federal ID#: 13-3488925

Telephone Number: (561) 922-0314 Fax: (561) 495-9089

Date: 9-27-12

*Failure to affix signature may result in disqualification of proposal.

Name of Bidder's Contact Person: David Kelly

Address: 1328 E. MAGNOLIA CIRCLE DELRAY BCH, FL. 33445

Phone Number: 561-922-0314 Fax Number: 561-495-9089

E Mail Address: David.kelly@CLUBCAR.COM

TOWN OF PALM BEACH

Town Council Meeting on: October 9, 2012

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 135-2012 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, to Authorize the Continued Services of Greenberg Traurig, LLP, to Represent the Town for Federal Lobbying Services in FY13 at a Cost Not to Exceed \$63,000.

Presenter

Peter B. Elwell, Town Manager

Supporting Documents

- Memorandum dated October 3, 2012, from Peter B. Elwell, Town Manager
- Resolution No. 135-2012

TOWN OF PALM BEACH

Information for Town Council Meeting on: October 9, 2012

To: Mayor and Town Council

From: Peter B. Elwell, Town Manager

Re: Federal Lobbying Services
Resolution No. 135-2012

Date: October 3, 2012

STAFF RECOMMENDATION

Staff recommends that the Town Council approve Resolution No. 135-2012 authorizing the continued services of Greenburg Traurig, LLP, to represent the Town before Congress, Federal regulatory agencies, and other Federal interests for a total FY13 cost not-to-exceed \$63,000.

GENERAL INFORMATION

The Town has enjoyed a successful relationship with lobbyist Joe Corrigan of the Washington office of Greenburg Traurig (GT). Mr. Corrigan is a retired U.S. Army Colonel who once served as District Engineer for the Mobile District of the U.S. Army Corps of Engineers. While he and his colleagues at GT also represent the Town on other issues, Mr. Corrigan has been especially effective in representing the Town's interests in our recently improved communications with the Corps of Engineers, both at the Jacksonville District and in Washington.

Twelve monthly payments of \$5,000 each to GT will amount to a total of \$60,000 in fees for this year. In addition, per our existing arrangement, we reimburse for properly documented out-of-pocket expenses incurred by GT in its provision of services to the Town. The most frequent of these are small charges for office related expenses, but occasionally it is necessary for Mr. Corrigan to travel to Jacksonville or Palm Beach on the Town's behalf. We only reimburse travel expenses when I personally approve the trip in advance. In order to ensure that we have sufficient authority to pay GT for its reasonable expenses in addition to its monthly fees, I am requesting that the Town Council approve a not-to-exceed figure of \$63,000 for the total cost of these services for FY13.

FUNDING/FISCAL IMPACT

Sufficient funds are available from the adopted FY13 budget to pay up to \$63,000 for Federal lobbying services as recommended in this memorandum.

TOWN ATTORNEY REVIEW

Resolution No. 135-2012 is in a standard format that has previously been approved by the Town Attorney for legal form and sufficiency.

Attachment

n:\pbe\memos\2012\mtc federal lobbying services.doc

RESOLUTION NO. 135-2012

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, TO AUTHORIZE THE CONTINUED SERVICES OF GREENBERG TRAURIG, LLP, TO REPRESENT THE TOWN FOR FEDERAL LOBBYING SERVICES IN FY13 AT A COST NOT TO EXCEED \$63,000.

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

Section 1. The Town Manager is hereby authorized and directed to execute a purchase order with Greenberg Traurig, LLP, in the amount of \$63,000 for Federal lobbying services during FY13.

Section 2. The Town Manager, or his designee, is hereby authorized and directed to take such further action as may be necessary to effectuate the continued representation of the Town by Greenberg Traurig, LLP, before Congress, Federal regulatory agencies, and other Federal interests.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 9th day of October 2012.

Gail L. Coniglio, Mayor

David A. Rosow, Town Council President

Robert N. Wildrick, President Pro Tem

William J. Diamond, Town Council Member

ATTEST:

Richard M. Kleid, Town Council Member

Susan A. Owens, MMC, Town Clerk

Michael J. Pucillo, Town Council Member

TOWN OF PALM BEACH

Town Council Meeting on: October 9, 2012

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 136-2012 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Planning Study for the Town Hall Square Historic District and the Mizner Fountain by Bridges, Marsh & Associates in an Amount Not to Exceed \$48,000; Authorizing the Town Manager to Execute the Proposal on Behalf of the Town.

Presenter

Thomas G. Bradford, Deputy Town Manager

Supporting Documents

- Memorandum dated September 28, 2012, from Thomas G. Bradford, Deputy Town Manager
- Resolution No. 136-2012
- Planning Study Proposal

TOWN OF PALM BEACH

Information for Town Council Meeting on: October 9, 2012

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: Thomas G. Bradford, Deputy Town Manager

Re: Approval of a Planning Study for Town Hall Square Historic District and the Mizner Fountain by Bridges, Marsh & Assoc.(BMA) in an Amount Not to Exceed \$48,000.
Resolution No. 136-2012

Date: September 28, 2012

STAFF RECOMMENDATION

Staff recommends the Town Council adopt Resolution No. 136-2012. If approved, the resolution will authorize the Town Manager to execute a proposal with BMA in an amount not to exceed \$48,000 for a Planning Study for Town Hall Square Historic District and the Mizner Fountain as requested by the Centennial Commission.

GENERAL INFORMATION

The Town Council approved a Centennial Commission request to continue active work on a permanent physical legacy of the Town's recent Centennial at the February 16, 2012, Town Council meeting as well as the request for staff assistance in this regard. Work has been ongoing since that date. On August 14 the Centennial Commission requested work be undertaken by the Town to assess in further detail the extent of restoration and/or replication work needed for the Mizner Fountain, with an updated budget to accomplish needed restoration and/or replication work and a survey of the Town Hall Square above and below ground infrastructure for facilitation of future site work in the area anticipated to include landscaping and streetscape work. The Town Council approved funding not to exceed \$50,000 on August 14. Since that date we have been working with BMA to develop an acceptable proposal to accomplish the requested work effort.

In order to commence the requested work the Town needs to secure professional services for what we are referring to as a Planning Study for Town Hall Square Historic District and the Mizner Fountain. The Town has an existing professional services agreement with BMA. Under Florida's Competitive Consultant's Negotiations Act (CCNA) a contract for professional services entered into in accordance with all the procedures of the act between an agency (Town) and a firm (BMA) can be used for projects in which the

estimated construction cost of each individual project under the contract does not exceed \$2 million or for a study activity if the fee for professional services for each individual study under the contract does not exceed \$200,000. Since we do not have a sufficiently defined scope of work to constitute an individual project what we have here is a study activity with a budget not to exceed the \$50,000 approved by the Town Council. This study activity is to research, evaluate and survey the Town Hall Square Historic District for the purpose of creating a proposed conceptual improvement plan (landscaping and streetscape) for the entirety of the Town Hall Square Historic District, with specific study recommendations to include proposed work for the Mizner Fountain relative to the restoration or replication of the fountain's various elements, with an order of magnitude cost to restore the fountain.

FUNDING/FISCAL IMPACT

The Town Council approved funding for this study activity, not to exceed \$50,000, on August 14, 2012.

PURCHASING REVIEW

This procurement has been reviewed and approved by the Purchasing Division of the Finance Department.

TOWN ATTORNEY REVIEW

Resolution No. 136-2012 has been approved by the Town Attorney for legal form and sufficiency.

cc: H. Paul Brazil, Director of Public Works
Jane Struder, Director of Finance
John C. Randolph, Town Attorney
Eric Brown, Assistant Director of Public Works
Lynda Cummings, Purchasing Agent
Mark Marsh, AIA, BMA
Bill Bone, President, Centennial Commission
Bill Metzger, Director, Centennial Commission
Elizabeth S. Dowdle

RESOLUTION NO. 136-2012

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING A PLANNING STUDY FOR THE TOWN HALL SQUARE HISTORIC DISTRICT AND THE MIZNER FOUNTAIN BY BRIDGES, MARSH & ASSOCIATES IN AN AMOUNT NOT TO EXCEED \$48,000; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE PROPOSAL ON BEHALF OF THE TOWN

WHEREAS, it is necessary to study various aspects of the Town Hall Square Historic District, including the Mizner Fountain in Memorial Park, for the purpose of creating a valid base of information identifying needed repairs, restoration and replacement work and to enumerate recommended improvements set forth by design professionals.

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

Section 1. The forgoing recitals are hereby ratified and confirmed.

Section 2. The planning study proposal of Bridges, Marsh & Associates in an amount not to exceed \$48,000, attached hereto as Attachment A, is hereby approved and the Town Manager is authorized to execute the proposal on behalf of the Town.

PASSED AND ADOPTED in a regular adjourned session of Town Council of the Town of Palm Beach this 9th day of October 2012.

Gail L. Coniglio, Mayor

David A. Rosow, Town Council President

Robert N. Wildrick, Council President Pro Tem

William J. Diamond, Town Council Member

ATTEST:

Richard M. Kleid, Town Council Member

Susan A. Owens, MMC, Town Clerk

Michael J. Pucillo, Town Council Member

21 September 2012

Mr. Thomas G. Bradford
Deputy Town Manager
Town of Palm Beach
PO Box 2029
Palm Beach, FL 33480

**RE: PLANNING STUDY FOR TOWN HALL SQUARE HISTORIC DISTRICT AND
THE MIZNER FOUNTAIN**

Research/ Evaluate, and Survey the Town Hall Square Historic District for the purpose of creating a conceptual improvement plan for the entirety of the Town Hall Square Historic District, with specific recommended actions for the Mizner Fountain in regard to restoration or replication of the fountain's various elements, with an order of magnitude cost to restore the fountain.

PROPOSAL FOR PROFESSIONAL SERVICES

The following is an "Hourly Rate, Not to Exceed" fee proposal for Basic Services on the above referenced planning study:

CONSULTANT SERVICES:

Architecture
Landscape Architecture
Historical Conservators
Structural Engineering
Plumbing Engineering
Electrical Engineer
Civil Engineer/ Traffic Engineering
Cost Estimating Technical Consultant
Land Surveyors

THE BASIC SERVICES:

ITEM 1:

- The provision of an As-built survey of above and below ground utilities, etc. to include the Town Hall Square area defined as that land and improvements lying within the perimeter of the north right-of-way line of Brazilian Avenue on the

BRIDGES, MARSH & ASSOC., INC.
chartered architects

north, the north façade of Town Hall on the south, to the western façade of all properties east of the eastern right-of-way line of AIA (S. County Road) and the eastern façade of all properties west of the western right-of-way line of AIA. (S. County Road).

- Based on historical research and the applicable portions of the as-built survey results a conceptual plan will be prepared in sufficient detail for the entire Town Hall Square Historic District, defined as that area on and along South County Road from the southern right-of-way line of Chilean Avenue on the south to the northern right-of-way line of Brazilian Avenue on the north to allow the Town and other public or private entities to review, approve or endorse the viability of the proposed improvements contained with the proposed conceptual plan prepared by the Architect and/or his consultants.

ITEM 2:

- A fountain analysis of the Mizner Fountain in Memorial Park will be provided. Fountain analysis will assess the existing fountain, study methods by which the fountain elements can be restored/replicated and a estimated cost of the required improvements. Also proposed improved pedestrian parking and landscape improvements.
 - Fountain Analysis will include:
 - Conditions recorded in written and photographic form
 - Preliminary assessments of existing utilities impacted by the work, including electrical, plumbing and pumping systems
 - Recommendations for restoration or replication
 - Structural evaluation of non decorative elements
 - Preliminary landscape/hardscape conceptual plans
 - Order of Magnitude budget of construction costs
 - Maintenance recommendations – to include recommendations for maintenance and operation for the fountain both in its current state and after restoration.

ITEM 3:

- Attendance of all required meetings with Town Officials, Property Owners, Design Consultants, Town appointed Review Committee or Board and Town Council.

All the above services to be undertaken up to a maximum of **\$47,000.00 (Forty-Seven Thousand Dollars)**

Basis of Compensation
As per P.S.A

BASIS OF COMPENSATION

- Architectural Services to be billed pursuant to PSA attached Exhibit "A".
- Subconsultants to be billed per PSA. See attached Exhibit "B".

ADDITIONAL SERVICES:

- Making revisions in drawings, specifications or other documents when such revisions are:
 - inconsistent with approvals or instructions previously given by the Owner, including revisions made necessary by adjustment in the Owner's program or Planning study budget;
 - required by the enactment or revision of codes, laws or regulations subsequent to the preparation of documents; or
 - due to changes required as a result of the Owner's failure to render decisions in a timely manner.
- Providing services required because of significant changes in the planning study including, but not limited to, size, quality, complexity, the Owner's schedule.
- Providing any other services not otherwise included in this Agreement or not customarily furnished in accordance with generally accepted architectural practices.

OWNER'S RESPONSIBILITY:

- The Town shall designate a representative authorized to act on the Town's behalf with respect to the Planning study. The Town or such designated representative shall render decisions in a timely manner pertaining to documents submitted by the Architect in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

- Geotechnical Exploration, including test borings, exfiltration, ground water location with analysis and recommendation.
- Permitting services or fees.

REIMBURSABLE EXPENSES:

In accordance with the Professional Services Agreement between the Town of Palm Beach and Bridges and Marsh Associates, Inc.

Allowance \$ 1,000.00

Mr. Peter B. Elwell, Town Manager

M. Mark Marsh, AIA , President

Date

Date

Exhibit “A”

Architectural Breakdown

ESTIMATE FOR ARCHITECTURAL SERVICES

PROJECT:	PLANNING STUDY FOR TOWN HALL SQUARE HISTORICAL DISTRICT AND THE MIZNER FOUNTAIN					9/21/2012
CLIENT:	Town of Palm Beach					Date:
ESTIMATOR:	Mark Marsh					
DESCRIPTION: Research/Evaluate, Survey the Town Hall Square Historic District for the purpose of creating a conceptual improvement plan for the entirety of the Town Hall Square Historic District, with specific recommended actions for the Mizner Fountain in regard to restoration or replication of the fountain's various elements, with an order of magnitude cost to restore the fountain.	DIRECT LABOR (MAN-HOURS)					
	Principal (MM)	PM/ CADD (HT)	Admin/Clerk (TF)			LINE TOTALS
	Meetings	12	2			\$ 2,950
	Research	4	2			\$ 1,150
	Design	6	10			\$ 2,600
	Administrative	6		6		\$ 1,710
				</		

Exhibit “B”
Subconsultant Breakdown

PROJECT: South County Roadway		Sheet 1 of 1					
CLIENT: Town of Palm Beach		Date: 9/24/2012					
ESTIMATOR: Sanchez and Maddux, Brian Vertesch							
DESCRIPTION: Additional Modifications to Worth Avenue Improvements Requested by Owners & Town		DIRECT LABOR (MAN-HOURS)					
		Principal JAS/PMM	PM BSV	CAD RW/AR	Graph. Art	Clerk	
PHASE I Meetings		6	8	4		0.5	\$ 2,690
Research		4	6			0.5	\$ 1,690
Schematic Design		5	8	20		0.25	\$ 3,765
Graphic Illustrations		1	3		40	0.25	\$ 3,855
TOTAL HOURS		16	25	24	40	1.5	
LABOR (\$/hour)		\$190	\$150	\$80	\$80	\$60	
TOTALS		\$3,040	\$3,750	\$1,920	\$3,200	\$90	\$12,000

Conservation Solutions fee breakdown

Project:	Mizner Fountain Restoration				Date:	9/24/2012
Client:	Bridges Marsh & Associates					
Description: Survey the central fountain feature of the Mizner Fountain to detail conditions and analyze materials in preparation for restoration.		Principal	Conservator	Asst Conservator		
Pre-survey research			4	4		
Site Survey			24			
Report Preparation	4		12	16		
Materials testing	1			10		
Total Hours	5	40	30			
Rate	\$ 179.00	\$ 149.00	\$ 90.00			
Totals	\$ 895.00	\$ 5,960.00	\$ 2,700.00		Fee	\$ 9,555.00
Reimbursables						
Reimb. \$ 600.00						
Total \$ 10,155.00						

ESTIMATE FOR STRUCTURAL SERVICES

PROJECT:		PLANNING STUDY FOR TOWN HALL SQUARE HISTORICAL DISTRICT AND THE MIZNER FOUNTAIN					9/21/2012
CLIENT:		Town of Palm Beach					Date:
ESTIMATOR:		Carno Engineering					
DESCRIPTION: Research/Evaluate, Survey the Town Hall Square Historic District for the purpose of creating a conceptual improvement plan for the entirety of the Town Hall Square Historic District, with specific recommended actions for the Mizner Fountain in regard to restoration or replication of the fountain's various elements, with an order of magnitude cost to restore the fountain.		DIRECT LABOR (MAN-HOURS)					
		Principal (DC)					LINE TOTALS
		2					\$ 350
Meetings		2					\$ 350
Research		1					\$ 175
Design		1					\$ 175
Administrative							
TOTAL HOURS		6					6
LABOR (\$/hour)		\$175					
TOTALS		\$1,050					\$1,050
AS-BUILTS (allowance)							
REIMBURSABLES (allowance)							

ESTIMATE FOR MECHANICAL/ELECTRICAL/PLUMBING

PROJECT:	PLANNING STUDY FOR TOWN HALL SQUARE HISTORICAL DISTRICT AND THE MIZNER FOUNTAIN					9/21/2012
CLIENT:	Town of Palm Beach					
ESTIMATOR:	David Wojcieszak					
DESCRIPTION:	DIRECT LABOR (MAN-HOURS)					LINE TOTALS
Research/Evaluate, Survey the Town Hall Square Historic District for the purpose of creating a conceptual improvement plan for the entirety of the Town Hall Square Historic District, with specific recommended actions for the Mizner Fountain in regard to restoration or replication of the fountain's various elements, with an order of magnitude cost to restore the fountain.	Principal (DW)	Electrical (T M)				
	2				\$ 300	
	2	2			\$ 550	
	3	3			\$ 825	
	1				\$ 150	
				</		

ATTACHMENT A

9/25/2012

ESTIMATE FOR LAND SURVEYING

PROJECT:		PLANNING STUDY FOR TOWN HALL SQUARE HISTORICAL DISTRICT AND THE MIZNER FOUNTAIN					9/21/2012	
CLIENT:		Town of Palm Beach					Date:	
ESTIMATOR:		Craig Wallace						
DESCRIPTION:								
Research/Evaluate, Survey the Town Hall Square Historic District for the purpose of creating a conceptual improvement plan for the entirety of the Town Hall Square Historic District, with specific recommended actions for the Mizner Fountain in regard to restoration or replication of the fountain's various elements, with an order of magnitude cost to restore the fountain.								
Set-up for field, field coordination, review		4						\$ 500
Drafting			19+/-					\$ 1325+/-
Field Crew				25				\$ 2,575

ESTIMATE FOR Cost Estimating Technical Consultant

PROJECT:	PLANNING STUDY FOR TOWN HALL SQUARE HISTORICAL DISTRICT AND THE MIZNER FOUNTAIN					9/21/2012
CLIENT:	Town of Palm Beach					Date:
ESTIMATOR:	Hedrick Brothers					
DESCRIPTION:		DIRECT LABOR (MAN-HOURS)				LINE TOTALS
Research/Evaluate, Survey the Town Hall Square Historic District for the purpose of creating a conceptual improvement plan for the entirety of the Town Hall Square Historic District, with specific recommended actions for the Mizner Fountain in regard to restoration or replication of the fountain's various elements, with an order of magnitude cost to restore the fountain.		Principal (RL)	Project Manager			
Estimating		16				\$ 1,152
Project Management			24			\$ 1,848
TOTAL HOURS		16	24			40
LABOR (\$/hour)		\$72	\$77			
TOTALS		\$1,152	\$1,848			\$3,000
AS-BUILTS (allowance)						
REIMBURSABLES (allowance)						

ESTIMATE FOR Herpel Cast Stone & Concrete

[illegible]

TOWN OF PALM BEACH

Town Council Meeting on: October 9, 2012

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 141-2012 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Contract in an Amount Not to Exceed \$30,000 to EMS Management & Consultants, Inc., to Provide Emergency Medical Services Third Party Billing Services, Establishing a Budget for Said Services, and Authorizing the Town Manager to Take Actions Necessary to Complete Said Services.

Presenter

Kirk Blouin, Director of Public Safety

Supporting Documents

- Memorandum dated September 27, 2012, from Kirk Blouin, Director of Public Safety
- Resolution No. 141-2012
- Selection Committee Rankings

TOWN OF PALM BEACH

Information for Town Council Meeting on: October 9, 2012

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: Kirk Blouin, Director of Public Safety

Re: EMS Third Party Billing, RFP 2012-36
Resolution No. 141-2012

Date: September 27, 2012

STAFF RECOMMENDATION

Staff recommends that the Town Council approve Resolution No. 141-2012 authorizing the Town Manager to enter into a contract with EMS Management & Consultants, Inc. to provide third party billing services for EMS transports at a projected annual cost not to exceed \$30,000 (final figure will vary dependent upon net revenue collected plus \$7.00 per Medicaid claim).

In order to provide a smooth transition from our current in-house billing process to the third party billing service, it is recommended that the Medical Billing Specialist remain on staff in the Fire Rescue Department to provide billing services until such time as the conversion process is complete and the selected vendor is prepared to “go live” with the billing process, but no later than the end of December of this year.

GENERAL INFORMATION

EMS transport billing has been performed in-house by the Fire Rescue Department since October 2002. With the increased focus on healthcare reform and the greater regulations placed on providers, the Department feels the process would be more efficiently performed by a dedicated, third party provider.

Staff prepared and conducted a Request for Proposal (RFP) for a third party medical billing service. A Selection Committee was formed consisting of Amy Wood, Accounting Supervisor, Finance Department; Lisa Walkowich, Office Manager, Recreation Department; Lisa Gorman, Administrative Planner, Police Department; Brian Fuller, Division Chief of EMS, Fire Rescue Department; and Belinda Hardy, Office Manager, Fire Rescue Department (assisted by Purchasing staff members Adis Pedraza and John Cmar). On September 13, 2012, the Committee met to score proposals from five vendors. The top three scoring vendors were: EMS Management & Consultants, Inc., Med3000, Inc., and Advanced Data Processing, Inc. dba Intermedix. All three firms were then invited to attend an oral interview on September 21, 2012.

Final scoring was completed after hearing presentations from each vendor. Selection Committee rankings (attached) resulted in a determination that EMS Management & Consultants, Inc. should be awarded the contract.

FUNDING/FISCAL IMPACT (if applicable)

The attached Resolution contains a not-to-exceed \$30,000 cost for EMS third party billing services. This cost includes an all-inclusive fee of net revenues collected (fee to be negotiated at time of contract) plus \$7.00 per Medicaid claim filed.

Average revenue for the past three years is approximately \$412,589. As of the date of this memorandum revenues for FY2012 are approximately \$435,502 and are expected to meet or exceed the \$450,000 budget projection.

Elimination of the Medical Billing Specialist position within the Fire Rescue Department will save approximately \$49,000 annually. The employee currently in the Medical Billing Specialist position will be offered a position of the same grade in another department within the Town.

PURCHASING REVIEW

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

TOWN ATTORNEY REVIEW

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

Attachments

cc: Lynda Venne Cummings, Purchasing Agent
Jane Struder, Finance Director
John C. Randolph, Town Attorney
Darrel Donatto, Deputy Fire Rescue Chief

RESOLUTION NO. 141-2012

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AWARDING A CONTRACT IN AN AMOUNT NOT TO EXCEED \$30,000 TO EMS MANAGEMENT & CONSULTANTS, INC., TO PROVIDE EMERGENCY MEDICAL SERVICES THIRD PARTY BILLING SERVICES, ESTABLISHING A BUDGET FOR SAID SERVICES, AND AUTHORIZING THE TOWN MANAGER TO TAKE ACTIONS NECESSARY TO COMPLETE SAID SERVICES.

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 Emergency Medical Services transport billing contract is hereby awarded to EMS Management & Consultants, Inc., for an amount not to exceed \$30,000.

Section 2. The Town Manager is hereby authorized and directed to execute a contract on behalf of the Town of Palm Beach for Emergency Medical Services transport billing with EMS Management & Consultants, Inc.

Section 3. The Town Manager, or his designee, is hereby authorized and directed to take such further actions as may be necessary to effectuate this contract for Emergency Management Services transport billing.

Section 4. The Town will maintain the position of Medical Billing Specialist within the Fire Rescue Department for the remaining months of this calendar year during the transition to the third party consultant.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 9th day of October 2012.

Gail L. Coniglio, Mayor

David A. Rosow, Town Council President

Robert N. Wildrick, President Pro Tem

William J. Diamond, Town Council Member

ATTEST:

Richard M. Kleid, Town Council Member

Susan Owens, MMC, Town Clerk

Michael J. Pucillo, Town Council Member

SELECTION COMMITTEE RANKINGS

	Committee Member	Brian Fuller	Lisa Gorman	Belinda Hardy	Lisa Walkowich	Amy Wood	Total
		Rating	Rating	Rating	Rating	Rating	Average Rating
1	EMS Management & Consultants, Inc.	4.75	4.80	4.35	4.45	4.50	4.57
2	Med3000, Inc.	4.40	4.50	4.30	4.85	4.75	4.56
3	Advanced Data Processing, Inc. dba Intermedix	5.00	4.60	4.15	4.60	4.20	4.51

TOWN OF PALM BEACH

Town Council Meeting on: October 9, 2012

Section of Agenda

Consent - Other

Agenda Title

Approval of State Forfeiture Expenditures for FY2012.

Presenter

Kirk Blouin, Director of Public Safety

Supporting Documents

- Memorandum dated September 18, 2012, by Kirk W. Blouin, Director of Public Safety
- Certification of State Forfeiture Expenditures

TOWN OF PALM BEACH

Information for Town Council Meeting on: October 9, 2012

To: Mayor and Town Council
Via: Peter B. Elwell, Town Manager
From: Kirk W. Blouin, Director of Public Safety
Re: Approval of State Forfeiture Expenditures for FY2012
Date: September 18, 2012

STAFF RECOMMENDATION

Staff requests the approval of the Town Council of State Forfeiture expenditures during the fiscal year 2012 of \$20,900.03.

GENERAL INFORMATION

Pursuant to F.S.S. 932.7055 (Disposition of liens and forfeited property), state forfeiture funds may be expended upon the request of the Chief of Police, accompanied by a written certification that the request complies with the provisions of F.S.S. 932.7055 subsection 5(c), to the governing body of the municipality.

Attached is said certification and itemized list of expenditures for Fiscal Year 2012.

FUNDING/FISCAL IMPACT

There is no funding impact.

Attachments

KWB/lsg

TOWN OF PALM BEACH

Information for Town Council Meeting on: October 9, 2012

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: Kirk W. Blouin, Director of Public Safety

Re: Certification of State Forfeiture Expenditures for FY2012

Date: September 18, 2012

I hereby certify that expenditures (itemized list attached) made during FY2012 from the Town's State Forfeiture Fund are in accordance with F.S.S. 932.7055, subsection 5(c), which states:

"Such proceeds and interest earned therefrom shall be used for school resource officer, crime prevention, safe neighborhood, drug abuse education and prevention programs, or for other law enforcement purposes, which include defraying the cost of protracted or complex investigations, providing additional equipment or expertise, purchasing automated external defibrillators for use in law enforcement vehicles, and providing matching funds to obtain federal grants. The proceeds and interest may not be used to meet normal operating expenses of the law enforcement agency."


Kirk W. Blouin, Director of Public Safety

Dated: 09 / 18 / 12

PALM BEACH POLICE DEPARTMENT
State Forfeiture Expenditures
Fiscal Year 2012

Payee	Amount	Purpose
Palm Beach County School District	\$ 1,000.00	Support of Youth Programs
Sungard Public Sector, Inc.	\$ 7,500.00	CAD Resource Monitor Software & License Fee (provides ability to monitor personnel (i.e. location, type of call) and service call activity/history)
U.S. Treasure c/o U.S. Army	\$ 430.86	Shipping costs: (10) 5.56 Millimet surplus rifles
Safariland, LLC	\$ 945.25	Air Science UV-Box Brush Sterilizer for Crime Scene Unit personnel
Dana Safety Supply, Inc.	<u>\$11,023.92</u>	Motorcycle Boxes to fit computer, radio equipment, portable printer and other supplies
Total	\$20,900.03	

TOWN OF PALM BEACH

Town Council Meeting on: October 9, 2012

Section of Agenda

Consent - Other

Agenda Title

Waiver of Town Code of Ordinance Section 42-199 to Allow for Extra Work Days for the Queens Lane, Nightingale Trail and Garden Road Alley, Paving, Grading and Drainage Improvements Project.

Presenter

H. Paul Brazil, Director of Public Works

Supporting Documents

- Memorandum dated September 21, 2012, from H. Paul Brazil, P.E., Director of Public Works

TOWN OF PALM BEACH

Information for Town Council Meeting on: October 9, 2012

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: Waiver of Town Code of Ordinance Section 42-199 to Allow for Extra Work Days for the Queens Lane, Nightingale Trail and Garden Road Alley, Paving, Grading and Drainage Improvements Project

Date: September 21, 2012

STAFF RECOMMENDATION

Staff recommends that Town Council grant approval to Foster Marine Contractors, Inc. (Foster) for exception to Section 42-199 of the Town of Palm Beach Code of Ordinances to allow additional work days in order to complete the current improvement project. Staff is requesting an extension until December 12, 2011.

GENERAL INFORMATION

Foster was awarded this project in August 2012 but they were not issued a Notice to Proceed until September 11, 2012, due to complications related to the execution of the construction contract. The Notice to Proceed allows the contractor until December 3, 2012, to reach substantial completion and until December 12, 2012, to reach final completion. Town staff and Foster believe that this project will more than likely be completed prior to December 1, 2012, but inclement weather and unforeseen conditions may cause project completion to extend into the season. Foster will be working on three streets during this project and they will substantially complete one at a time. We are asking Town Council for a time extension as a contingent item, to avoid having to shut down a nearly complete job on December 1, if all work is not complete by then.

Staff recommends a waiver to Section 42-199 of the Town Code of Ordinances allowing construction to continue until December 12, 2012, if necessary. Work will not be allowed to extend beyond December 12, 2012.

FUNDING/FISCAL IMPACT

There will be no fiscal impact to the Town associated with this request.

cc: Eric Brown, P.E., Assistant Director of Public Works
Charles R. Langley, P.E., Senior Project Engineer
Doug Terry, Water Resources Division Manager

TOWN OF PALM BEACH

Town Council Meeting on: October 9, 2012

Section of Agenda

Consent - Other

Agenda Title

Authorization of Funding for Temporary Piping to Bypass Lift Station 22.

Presenter

H. Paul Brazil, Director of Public Works

Supporting Documents

- Memorandum dated September 28, 2012, from H. Paul Brazil, P.E., Director of Public Works

TOWN OF PALM BEACH

Information for Town Council Meeting on: October 9, 2012

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: Lift Station 22 - Authorization of Funding for Temporary Bypass Piping
Accelerated Capital Improvement Program

DATE: September 28, 2012

STAFF RECOMMENDATION

Town staff recommends that Town Council approve funding for construction of temporary bypassing of Lift Station 22 and for improvements to the Town's force main in West Palm Beach. Staff recommends establishing a project budget of \$82,000.

GENERAL INFORMATION

The Town is expecting completion of the Town's Pump Station S-2 Inline Booster Station project in November 2012. When this station is completed, the Town will have the ability to pump directly from the S-2 station to the regional sewage treatment facility, bypassing the Lift Station 22 re-pump station in West Palm Beach.

The Town has under design a new section of force main in West Palm Beach to bypass Lift Station 22. This design is nearing completion. Construction is expected to be completed in April 2013 which will allow the abandonment of Lift Station 22, saving the Town approximately \$90,000 a year.

The Lift Station 22 wet well slab recently failed. The station itself is in poor condition and the Town does not want to invest any more money in the station, so proceeding to abandon this station at the earliest possible date is critical. The Town has consulted with the City of West Palm Beach and we are in agreement that a short section of pipe could be installed next to the station to temporarily bypass Lift Station 22, allowing for its' abandonment shortly after the S-2 station is completed in November. In addition to this pipe, the Town will need to add pipe stiffeners to the two ends of a HDPE pipe installed by the Town on its' force main in the early 1990's. This work is required to be done to fully activate the permanent bypass of Lift Station 22 and represents the majority of the work to be done.

On a preliminary basis, the bypass piping is estimated at \$20,000 and the installation of the stiffeners is estimated at \$30,000. Engineering is \$15,000 and materials / roadway restoration is \$10,000. With contingency, a project budget of \$82,000 is requested.

This work is proposed to be completed under a Palm Beach County Annual Contract for underground piping. Materials will be purchased directly by the Town. Roadway restoration will be by separate contract. Because the overall cost of this project is less than \$100,000, Town Council approval of the individual contracts is not required.

FUNDING/FISCAL IMPACT

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

cc: Eric Brown, P.E., Assistant Director of Public Works
James Bowser, P.E., Town Engineer
Charles R. Langley, P.E., Senior Project Engineer
Douglas Terry, Water Resources Division Manager
Lynda Cummings, Purchasing Agent

TOWN OF PALM BEACH

Town Council Meeting on: October 9, 2012

Section of Agenda

Committee Reports

Agenda Title

Public Works Committee Meeting of September 12, 2012.

Presenter

Michael J. Pucillo, Town Council Member

Supporting Documents

- Report of the Public Works Committee Meeting of September 12, 2012

**REPORT OF THE PUBLIC WORKS COMMITTEE MEETING HELD
ON WEDNESDAY, SEPTEMBER 12, 2012**

I. CALL TO ORDER AND ROLL CALL

The Public Works Committee meeting was called to order on Wednesday, February 12, 2012, at 9:30 a.m., in the Town Council Chambers. On roll call, Chairman Pucillo and Committee Member Kleid were found to be present.

II. APPROVAL OF AGENDA

Motion was made by Committee Member Kleid, and seconded by Chairman Pucillo, to approve the Agenda. On call for a vote, the motion carried unanimously.

III. PUBLIC COMMENT – None

IV. ACCELERATED CAPITAL IMPROVEMENT PROGRAM UPDATE

Director of Public Works Brazil provided an update on the Accelerated Capital Improvement Program (ACIP).

1) D-15 (D-6 & D-7) Pump Station Rehabilitation at Lakeside Park

He stated that Staff anticipates completing the project on time and under budget. There will be some opportunities to improve the landscaping a little bit, but that will not be ACIP money. Funding for that might be something we do from the operating or recreation funds.

2) A-39 to A-7 Force Main Replacements

He stated that Staff is going to change the approach to the paving, and do full paving for the entire project. Right now, we are ahead of schedule. The force main is in from Southern Boulevard south, from South County Road north, and going down El Bravo to the A-7 Pump Station. We asked the Town Council yesterday to transfer in the savings from another part of this project to round out our contingency to cover the additional paving. We anticipate about \$92,000 in contingency; and, we don't expect to have to use that and, hopefully, we will return it to the ACIP.

1 The crews have done temporary paving; and, probably within about two weeks,
2 crews will be starting the additional paving at the south end and work their way
3 towards Southern Boulevard. We will not close the road completely again. There
4 will be individual lane closures like before, with flagging operations around them.
5 Our goal is to reach final completion before Thanksgiving.
6

7 3) Pump Station S-2 Inline Booster System
8

9 He stated that this project is on schedule to be completed November 12, 2012.
10 There have been a couple small change orders for some additional valving in a
11 small section of the force main that we did not expect. Funding was accomplished
12 through our contingency. We expect to finish the project on budget.
13

14 4) Street Lighting Improvements
15

16 He stated that this was the project that we stopped last year in order to get
17 clarification from the Town Council regarding what types of light poles the existing
18 ones should be replaced with. We picked up work again this year. We expect to
19 complete the project before November, 2012. The project is on budget.
20

21 5) Pump Stations A-5 & A-6 Improvements
22

23 He stated that we have about \$400,000 worth of work to do to replace pumps in
24 these stations. We will bid the project to our pre-qualified contractors. We are
25 currently designing the project now.
26

27 6) Sanitary Gravity Main Replacement Program
28

29 He stated that the project is going to come in substantially under budget. We
30 anticipate returning about \$440,000 to the ACIP. There was less work than
31 anticipated, and the bids came in lower than expected.
32

33 7) Stormwater Corrugated Metal Pipe Replacement Program (includes D-4 Pipe
34 Repair)
35

36 He stated that the project is going to come in substantially under budget. We
37 anticipate returning about \$580,000 to the ACIP. There was less work than
38 anticipated, and the bids came in lower than expected.
39

40 Committee Member Kleid asked about the estimated savings going back into the ACIP
41 from several of these projects.
42

43 Director of Public Works Brazil responded that there was a possibility that we might be
44 able to use these savings to do some of the projects that we were not able to fund this
45 year. Staff has prioritized the D-4 & D-10 storm water stations as the first projects they
46 would like to proceed with if there is a surplus.

1 8) D-4 Pipe Repair

2
3 He stated that Staff and the Town consultants found a way to repair the pipe without
4 removing the entire section that had the leaks. We think we can save a substantial
5 amount of money with this option.
6

7 9) Telemetry System Improvements

8
9 He stated that the Town rejected all bids for this project due to some issues
10 regarding bid bonds and whether or not the bid specifications were too product
11 specific. We will come back with a performance-based set of specifications and re-
12 bid it. We do have a deadline with the Federal Communications Commission.
13 Everyone has to do the conversion from narrow band by the first of the year. We
14 believe that if we show a good faith effort, and hopefully even have a contract in
15 place, then the Federal Communications Commission will be lenient with us.
16

17 Town Manager Elwell added that we will come back to the Town Council for a bid
18 award in November if we can, but it will probably be the December Town Council
19 meeting. We want to get this project under contract by the end of the year, and then
20 complete it as soon as possible.
21

22 10) D-4 Pump Station Improvement Project

23
24 Director of Public Works Brazil stated that, when we update this station, we will
25 also upgrade the overflow station, D-3, so that it does not have to run on a
26 generator, which has impacted the neighbors.
27

28 Council Member Kleid asked about the status of the projects funded under the current
29 and potential second bond.
30

31 Director of Public Works Brazil stated that the Town is nearly 75% complete with the
32 first set of bonded projects. We hope to finish the vast majority of the work in the next
33 construction season.
34

35 Town Manager Elwell stated that the initial decision with the bonds was that there would
36 be three phases of approximately \$40 million dollars each, where we would go out to
37 market every seven to eight years. Since the economy has not recovered yet, interest
38 rates are remaining extremely low, and it would probably be advantageous to the Town to
39 have Phase II happen sooner. One of the things we will be doing over the next several
40 months is looking at the priority projects. At that point, it will be a policy decision and
41 financing question as to whether we proceed with the projects as soon as possible, or
42 whether we take a pause at the end of the phase.
43

44 11) Traffic Signal Improvement Project

45
46 He stated that Staff has managed to do a lot of the work in house, and we came in

1 under budget. The Town Council approved Staff's recommendation to complete
2 the last three intersections with the remaining funds. He clarified that these
3 detectors are only used to sense cars and switch the lights; they do not shoot film.
4

5 Director of Public Works Brazil stated that the following projects have been designed and
6 are awaiting construction scheduling/funding availability:
7

- 8 1) D-4 Pump Station Improvements
- 9 2) D-10 Pump Station Improvements

10
11 He stated that the following projects are being designed, and will be ready for bidding
12 late this year, and are anticipated to go to construction in 2013:
13

- 14 1) Ejector Station Upgrades
- 15 2) A-42 to A-41 and Par 3 to A-39 Force Main Replacements
- 16 3) E-6, Bradley Park to Tangier Avenue, Force Main Replacement
- 17 4) North Flagler Drive Force Main
- 18 5) Pump Station A-7 Inline Booster Station
- 19 6) Pump Stations A-39 & A-41 Improvements
- 20 7) Pump Stations A-42 & A-43 Improvements

21
22 He stated that the ACIP projects previously completed include:
23

- 24 1) Subaqueous Force Main Crossing
- 25 2) Tangier Avenue Infrastructure Improvements
- 26 3) North Lake Way and El Dorado Lane to Plantation Road Infrastructure
27 Improvements
- 28 4) North Lake Way & Laurian Lane Infrastructure Improvements

29
30 He added that all of these projects were completed within budget.
31

32 He stated that the following projects have cost significantly more than original estimates,
33 and have been placed on hold pending funding availability:
34

- 35 1) A-39 to A-7 Force Main Replacement
- 36 2) D-15 (D-6 & D-7) Pump Station Rehabilitation

37
38 He stated that the Town is issuing design contracts with the expectation that sufficient
39 funding will be available to complete the following projects under the current ACIP:
40

- 41 1) A-7 to Hammon Avenue Force Main Replacement
 - 42 2) Pinewalk Force Main Replacement
 - 43 3) E-3 Force Main Replacement
 - 44 4) Garden Road to Cherry Lane Force Main Replacement
 - 45 5) Ocean Outfall Junction Box Rehabilitation
- 46

1 Director of Public Works Brazil stated that Staff is seeking Committee approval for an
2 analysis to be conducted regarding the possible extension of the E-3 force main from the
3 intersection of Lake Trail and Cherry Lane down to the E-6 force main at Tangier
4 Avenue. Staff feels that this extension will help control sewage odors, save on
5 electricity, and reduce pump costs.
6

7 **Motion was made by Committee Member Kleid, and seconded by Chairman Pucillo, to**
8 **recommend to the Town Council that an analysis be conducted to extend the E-3 force**
9 **main from the intersection of Lake Trail and Cherry Lane down to the E-6 force main at**
10 **Tangier Avenue. On call for a vote, the motion carried unanimously.**
11

12 Discussion ensued regarding the funding of projects that have been placed on hold with
13 the savings from the projects that had come in under budget, and the possibility of
14 completing projects with a combination of Phase I and Phase II ACIP bond proceeds.
15

16 William Diamond, 220 Wells Road, asked about the implications of the Lake Trail force
17 main project.
18

19 Director of Public Works Brazil replied that the final design is not done. We are leaving
20 the option to cut and cover or use directional bores to the bidding process to see which is
21 more economical. Either way, Lake Trail will be severely impacted. During
22 construction, the safest thing to do is close that section.
23

24 William Diamond, 220 Wells Road, asked whether, after the big force main project is
25 complete, we would be able to cut off our service from Lake Worth, and use the station in
26 West Palm Beach.
27

28 Director of Public Works Brazil replied that no, there is still more work to be done. The
29 force main goes as far as A-7, which is near Island Road. Next year we convert that
30 station to an inline station, and at the same time, we are going to be doing work in the
31 City of West Palm Beach. We're upgrading the station in Bradley Park so it can push
32 further. We have to get this run of pipe in on West Palm Beach. Then we have to do a
33 small bypass at lift station 22. When all those components are in, then we can pump to
34 West Palm Beach. We would still be tethered to the Lake Work system for about a year
35 or a year and a half.
36

37 A. Authorization to Add New Generators to Scope of Work for Pump Stations A-39,
38 A-41, A-42 and A-43
39

40 Director of Public Works Brazil stated that the current generators were installed in
41 the 1960's. Normally, what we would do in this case is rehabilitate these
42 generators; however, since so many of the projects have been coming in under
43 budget, we would recommend investing in new generators. The project will still
44 be within budget if the change in scope of work is approved.
45

46 **Motion was made by Committee Member Kleid, and seconded by Chairman Pucillo, to**

1 recommend to the Town Council a change in the scope of work, adding replacement of the
2 emergency generators to the Pump Stations A-39 and A-41 improvements, and the Pump
3 Stations A-42 and A-43 improvements. On call for a vote, the motion carried unanimously.
4

5 **V. PAY-AS-YOU-GO CAPITAL IMPROVEMENT PROGRAM UPDATE**
6

7 Director of Public Works Brazil provided an update on the Pay-As-You-Go Capital
8 Improvement Program.
9

10 1) Roadway Resurfacing
11

12 He stated that the micro-resurfacing is already under contract. We had a limited
13 amount of milling and resurfacing that we were trying to accomplish this year;
14 however, it wasn't enough work to be attractive to any of the local paving
15 companies. So, we are going to bundle that work together with next year's milling
16 and resurfacing. We are going to redo the program, re-bid it, see if we can get
17 somebody interested. The Town Council meeting yesterday may necessitate a
18 revision of our five-year program. If so, it will come back to the Town Council at
19 the next meeting.
20

21 Chairman Pucillo asked where the work being done was.
22

23 Director of Public Works Brazil stated that, as far as the milling and resurfacing
24 goes, we have some large quantities of work to do north of Country Club Road.
25 There is a substantial amount of work to do at Mid-Town as well. We have some
26 smaller projects on the south end. All of the milling and resurfacing south of
27 Phipps Ocean Park has been done.
28

29 2) A-39 Pump Station Soil Remediation
30

31 He stated that the first round of work was done under budget and ahead of schedule.
32 We are now in a monitoring phase of the groundwater for the next year. If the
33 groundwater contamination levels do not get better, then we will have to do some
34 type of groundwater remediation as well.
35

36 3) Ejector Station Force Mains and Air Lines
37

38 He stated that the money for this project will be used to augment the
39 upgrades/replacements of the multi-family air driven ejector stations within the
40 ACIP. Since the stations are being replaced, there is the opportunity to save money
41 by replacing the force mains and air lines servicing them at the same time. Pay-as-
42 you-go funding will still be used for these force mains and air lines.
43

44 4) Single Family Expulser Stations
45

46 He stated that the work is complete. We are at close out with the individual

homeowners, and we are working with the Town and the home owners' attorneys for the final payment and hand-off of the stations. He added that the individual owners will now be responsible for maintaining their stations.

5) Queen's Lane, Nightingale Trail, and Garden Alley Drainage Improvements

He stated that every year the Town does minor drainage projects for roadways or small neighborhoods. This year, Staff had determined that these roads had insufficient drainage. They required the addition of a couple of inlets, and milling and resurfacing.

6) Refurbish Memorial Fountain

He stated that there may be an opportunity to do a project with the community through the Centennial Commission or other community groups. We do not know their timeframes, however. If the project isn't implemented relatively soon, we are going to have to go out there and do the maintenance ourselves.

7) Town Dock Improvements, 2012

He stated that fire line upgrades to the Brazilian and Australian Docks began in July. There was a planned electrical upgrade for the Australian Dock; however, Recreation and Marina Staff are re-evaluating the cost benefit of that and determining whether it would really pay off. We have gotten a firm cost on the design. What Staff is looking at now is whether it would really pay off to do that.

Committee Member Kleid asked about yacht owners that have upgraded the electricity at their own expense.

Director of Public Works Brazil replied that there are two that he knows of.

Committee Member Kleid stated that there is demand for it then.

Director of Public Works Brazil stated that if they feel that it is necessary, then we will take care of the project for them.

8) Undergrounding FPL Lines on Everglade Island

He stated that the Town has work on the north end of the Island for storm and sanitary sewers. The water lines need to be replaced on the south end. When all of that work is done, then we will go in and mill and resurface and recover the crown of the road, and provide some proper drainage.

Town Manager Elwell clarified that this project is not Town-initiated. The residents had met the 80% petition threshold, and the project came before the Town Council for approval.

1 **VI. AUTHORIZATION TO BEGIN 2013 CONSTRUCTION SEASON EARLY**

2
3 Director of Public Works Brazil stated that Staff expects another extremely busy
4 construction season, and is requesting authorization to begin the 2013 construction season
5 on or after April 8, 2013. The impacts will be minimal to the residents as the majority of
6 them leave Town right after the Easter/Passover season.
7

8 **Motion was made by Committee Member Kleid, and seconded by Chairman Pucillo, to**
9 **recommend to the Town Council that Town projects be allowed to commence on or after**
10 **April 8, 2013. On call for a vote, the motion carried unanimously.**
11

12 **VII. CITY OF WEST PALM BEACH SHARED USE OF TOWN FORCE MAIN**

13
14 Director of Public Works Brazil stated that the Town has an existing force main in Currie
15 Park running along 23rd Street, in West Palm Beach, to lift station (LS) 22. LS 22 is an
16 old City of West Palm Beach lift station that the Town has used and paid its share for.
17 Our recent capital improvement projects have allowed us to pump past LS 22, and
18 directly to the regional plant. We need to bypass LS 22 because the City of West Palm
19 Beach plans to construct a new potable water tank on the site. We anticipate it costing
20 \$550,000 to do the piping to bypass this station.
21

22 He stated that the Town has learned that the City is also planning to lay a new force main
23 along a similar route. Town Engineer Bowser has worked with the City, and they may be
24 willing to share the costs of this section. There would be an incremental cost differential
25 from \$550,000 to \$600,000 to get the additional capacity needed to accommodate both
26 the Town's and the City's flows. If we do this with the City, then they would share
27 approximately 33% of the cost. Our work ends up in the same spot; it just costs the
28 Town and the City less. The Town has good relations with the City, and already shares
29 other mains with them.
30

31 Town Engineer Bowser stated that Staff is currently rewriting a 1972 agreement with the
32 City about the shared force main in LS 22. What Staff will do is incorporate this new
33 force main section into the new agreement. The agreement will make clear that all
34 operation, maintenance, and replacement costs are shared proportionally by flows.
35

36 Chairman Pucillo asked if this item needed to go before the Town Council.
37

38 Town Manager Elwell responded that it did not; but, that it would be helpful if the
39 Committee takes an official action.
40

41 **Motion was made by Committee Member Kleid, and seconded by Chairman Pucillo, to**
42 **recommend to the Town Council to approve Staff's continuing discussion with the City of**
43 **West Palm Beach on the shared use of a Town-owned force main between 23rd Street and**
44 **North Flagler Drive, to the intersection of 23rd Street and Tamarind Avenue, in West Palm**
45 **Beach. On call for a vote, the motion carried unanimously.**
46

1 Town Manager Elwell advised that, because of the timing of the project, there will be an
2 interim agreement brought before the Town Council that will speak specifically to this
3 bypass section. The full, revised 1972 agreement will come before the full Town Council
4 afterwards.

5
6 **VIII. EAST COAST REGIONAL WATER RECLAMATION FACILITY BIOSOLIDS**
7 **PROJECT FINANCING ALTERNATIVES**
8

9 Director of Public Works Brazil stated that the cost for disposing our sewage sludge at
10 the Solid Waste Authority's (SWA) landfill is high (\$24/ton), and they are about to go
11 up. The members of the East Coast Regional Water Reclamation Facility (ECRWF)
12 Board have been trying to develop a new program to treat the sludge.

13
14 Town Engineer Bowser stated that the current agreement with SWA expires in 2014, and
15 they do not want to compost our sludge anymore. We need to find a new methodology to
16 dispose of the solids from the regional facility. We did two engineering analyses, and the
17 recommendation is that we: 1) construct anaerobic digesters, which will provide a
18 significant volume reduction in the solids that we have to dispose of, 2) rebuild our
19 dewatering building and go to centrifuges, which further reduces the amount of solids to
20 dispose of, and 3) focus on where the solids go: A) using a third-party-there's a number
21 of vendors that will take them away for us, B) joining in an existing pelletizer at the SWA
22 that was built by SWA and is shared by the County and several other treatment plants in
23 Palm Beach County, and C) building our own pelletizer. Our economic analysis
24 concluded that it was better for us to build our own pelletizer.

25
26 He stated that the disposal cost of the SWA pelletizer is \$52/ton. Currently we are
27 paying \$24/ton, but because the SWA is backing off their compost facility, this year our
28 solids disposal cost is only \$13/ton. We are having a tremendous savings this year; but,
29 regardless of whether we join the SWA pelletizer or we build our own, the costs at the
30 regional plant are going to go up significantly. Based on the engineering analysis, Staff
31 believes that we will be able to operate and maintain a pelletizer at much less than
32 \$52/ton.

33
34 He stated the City of West Palm Beach is re-investigating whether they want the
35 ECRWF Board to build the pelletizer. Palm Beach County has always voted against it
36 because they are a partner with the SWA pelletizer, and there is a cost savings to them if
37 we join their pelletizer.

38
39 Director of Public Works Brazil stated that the Town is part owner of this plant, 7.14%.
40 Constructing the pelletizer is a \$105 million project; and, the Board is looking at issuing a
41 30-yr bond. Our financial responsibility is based upon our percentage of ownership.

42
43 Town Manager Elwell stated that Staff has accounted for this project in the long-term
44 financial forecast. He added that, historically, these cost have come out of the General
45 Fund rather than being charged as user fees, primarily because property taxes are federal
46 income tax deductible.

1 Committee Member Kleid asked whether there are any environmental benefits with
2 making this transition.
3

4 Town Engineer Bowser stated that the final product is used in fertilizer, and there is a
5 very large demand for that. Also, the changes will reduce the facility's carbon footprint
6 by reducing energy needs. We will also be able to create and use methane gas at the
7 facility.
8

9 Town Manager Elwell stated that the Town saw this change coming, and has been
10 working on it for several years. Staff is confident moving forward with this option.
11

12 Town Engineer Bowser stated that there was an ECRWRF Board meeting this morning.
13 The City of West Palm Beach requested that the ECRWRF Board not enter into an
14 engineering contract to begin the design of the pelletizer yet.
15

16 This item was for informational purposes only; no action was needed.
17

18 **IX. MIRAFLORES INTERSECTION MODIFICATION**
19

20 Director of Public Works Brazil stated that Staff had the Town's consultant come up with
21 a plan to restripe the intersection, and we think it's going to lead to a much safer
22 situation. We can do the project inside our existing operating budget for about \$5,500.
23 The project will include removal of stop bars, addition of do not enter signs, addition of a
24 1-way only sign, addition of another stop bar, and addition of reflective pavement
25 markers. We maintain the landscaping; so, if there is ever a visibility problem, we can
26 fix it ourselves.
27

28 **Motion was made by Committee Member Kleid, and seconded by Chairman Pucillo, to**
29 **recommend to the Town Council to approve the proposed modification of the intersection**
30 **of Miraflores Drive and North Lake Way. On call for a vote, the motion carried**
31 **unanimously.**
32

33 **X. ANY OTHER MATTERS**
34

35 **A. RIGHT-OF-WAY MANUAL**
36

37 Director of Public Works Brazil stated that the Right-of-Way (ROW) Manual was
38 recently updated to mirror the Florida Department of Transportation's (FDOT)
39 standards. These standards work well for a majority of the smaller projects in
40 Town. The problem that has arisen is road restoration and aesthetical standards
41 for major utility replacements, such as the Town's force main replacement, and
42 Florida Public Utilities (FPU) replacement of their entire system on the north end.
43 He suggested that a separate category of work be created, and appropriate
44 standards be considered.
45

46 Town Manager Elwell stated that Staff had a very brief discussion yesterday, but

1 that the issue really needs some more thought, and consideration of the
2 implications of any modifications. Conceptually, Staff was thinking that perhaps
3 there would be a threshold determined by a certain number of individual cuts in
4 the road within a certain designated space. If we are going to require something
5 above FDOT standards, then we think it is very important that it not be on a case-
6 by-case basis, but rather a published standard.

7
8 Committee Member Kleid stated that he would like to proceed along that basis.
9 He would like to get some feedback from Staff as to how we could quantify when
10 we are going to require a full paving job.

11
12 Chairman Pucillo stated that we should think about distinguishing between the
13 north/south streets and the cross streets. We want to be careful not to impose a
14 more stringent requirement on residential cross streets. It seems to me that the
15 bigger issues have been on the north/south streets.

16
17 Town Manager Elwell responded that he feels the real issue here is system
18 replacement work that a utility company is doing, versus a homeowner doing a
19 particular project. The Committee should look on that as applying equally to the
20 main roads and side streets because, even if it is on a side street, the utility
21 company is going to impact multiple properties and they could end up leaving the
22 road looking really patchwork. I think the principle involved here is the scale of
23 what the utility company is doing, not the location.

24
25 Committee Member Kleid stated that we also have a better message to send if we
26 talk about quantity as opposed to particular streets. It would be easier to sell to
27 residents; and, it doesn't look like we're dividing up the Town.

28
29 Chairman Pucillo asked how relations were with FPU.

30
31 Director of Public Works Brazil responded that about a year ago it was rocky; but,
32 that they are good now and he has faith that they are going to hold up their end on
33 their projects.

34
35 Director of Public Works Brazil stated that the standards will apply to Town
36 projects as well.

37
38 Town Manager Elwell stated that Staff is going to put the item on the agenda for
39 the next Town Council meeting for substantive discussion and decision. There
40 will be one item dealing with this year's specific issues with FPU, and one item
41 including Staff recommendations regarding changes to the ROW Manual.

42 43 **B. UTILITY UNDERGROUNDING**

44
45 Deputy Town Manager Bradford provided an overview of the process for
46 undergrounding utilities and other non-ad valorem assessment projects.

1 He stated that the petition form was approved by the Town Council about four
2 years ago. It includes the following question for the petitioners to mark, "Does
3 this request entail the provision of a binding cost estimate prior to construction
4 commencement?". Also, at the bottom of every single page that they sign, it says,
5 in bold, "Please review conditions and procedures that follow." Then the
6 conditions and procedures are listed on the last page, and Item #5 pertains to the
7 binding cost estimate. He added that Item #5 could be worded better, and be
8 more specific. The Town Council may even want to go so far as recommending
9 that petitioners get a binding cost estimate or requiring a binding cost estimate
10 before going forward.

11
12 He stated that, when we receive a request, the first step is to determine how much
13 it is going to cost. We send the request to our engineering consultant. We tell
14 them to define the area of the beneficiaries, and to give us an engineer's opinion
15 of cost. I give that number to the "champion", and they talk amongst their
16 neighbors. Then I take the petition to Town Council and tell them Staff has
17 verified that they have met all of the conditions. If approved, then we proceed
18 with FPL and/or Comcast and/or AT&T to do the work. FPL has certain
19 contracts that they require the owner to do before they commence work. It's all
20 been approved by tariffs; we have no ability to change them directly. Then they
21 will tell the owner the amount of deposits and or money that has to be paid. We
22 know in advance of commencing construction, and we have a general idea
23 whether the engineer's opinion of cost is actually coming true or not.

24
25 He stated that, in the case of Via Fontana, the problem was that the owners did not
26 choose the binding cost estimate. The cost ended up being double what we had
27 estimated. We had estimated, through the engineer, that it would be \$115,000 and
28 change. It ended up being around \$224,000. The gentleman from 1616 South
29 Ocean Boulevard that spoke yesterday referenced a letter that he had received.
30 The champion in this neighborhood had indicated in this letter that it would only
31 be about \$1,000 a unit per year. I don't know where they got that number, or how
32 they got it. What we could do in the future is mandate the binding cost estimate.
33 The other thing that I will be doing on Everglade Island and on Lake Towers is to
34 control the narrative, and make sure that I send a post card or letter to all of those
35 people impacted; and, I tell them how much it's going to cost and how and when
36 we are going to do the work. If we had done that in Via Fontana, that probably
37 would have flushed out the cost problem that we had.

38
39 Chairman Pucillo stated that the Via Fontana situation was an unfortunate one,
40 and unfortunately there was some misrepresentation to the neighbors. I think you
41 might consider beefing up the language in Item #5 saying something like, "If you
42 don't get a binding cost estimate, it could cost more than you think, and you
43 would be better protected if you did get the estimate. Beyond that, the current
44 process is fine.

1 Committee Member Kleid agreed. He stated that he thinks the issue on Via
2 Fontana was an anomaly. They should have known what they were doing. The
3 only thing I am undecided about is if you want to mandate going to a binding cost
4 estimate; but, again, you are dealing with highly competent people here and they
5 should understand what they are signing and what they are reading, etc. Maybe
6 we should reiterate in the language that going outside of a binding cost estimate
7 could cost you more money.
8

9 Chairman Pucillo stated that is really all we need to do. Going forward, people
10 need to understand that the Town is just facilitating this operation.
11

12 Deputy Town Manager Bradford stated that Staff will beef up Item # 5 on the
13 application regarding the conditions and procedures.
14

15 **XI. ADJOURNMENT**
16

17 There being no further business, the Public Works Committee Meeting of Wednesday,
18 September 12, 2012, was adjourned at 11:29 a.m.
19
20

21 APPROVED:
22
23
24
25
26

27 _____
28 Michael J. Pucillo
29 Chairman
30

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

35 _____
Date

TOWN OF PALM BEACH

Town Council Meeting on: October 9, 2012

Section of Agenda

Committee Reports

Agenda Title

Recommendation to Begin 2013 Construction Season Early -Waiver of Town Code of Ordinance Sections 42-198 and 42-199.

Presenter

H. Paul Brazil, Director of Public Works

Supporting Documents

- Memorandum dated September 24, 2012, from H. Paul Brazil, P.E., Director of Public Works

TOWN OF PALM BEACH

Information for Town Council Meeting on: October 9, 2012

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: Authorization to Begin 2013 Construction Season Early
Waiver of Town Code of Ordinance Sections 42-198 and 42-199

Date: September 24, 2012

STAFF RECOMMENDATION

The Public Works Committee and Town staff recommend that Town Council grant a waiver of the Town Code of Ordinances sections 42-198 and 42-199 to allow for an early start to the Town's Capital Improvement projects on or after April 8, 2013.

GENERAL INFORMATION

In recent years, Town Council has granted waivers to sections 42-198 and 42-199 of the Town's Code of Ordinances for Town Capital Improvement Program projects to allow early project starts so sufficient time would be available for projects to be completed prior to the end of the Town's construction season, December 1st. What we have seen is that following Easter and Passover, there is a significant reduction of residents in the Town and the impact created by our projects is significantly less.

This coming year, Easter will be observed on March 31, 2013, and Passover will end on April 2, 2013. We are anticipating another very busy construction season and an early start will help us complete our work in the road right-of-way before the majority of residents return for the 2013-2014 season.

This request was presented to the Public Works committee. The committee voted unanimously to recommend approval by the Town Council.

FUNDING/FISCAL IMPACT

There is no fiscal impact associated with this item.

cc: Eric B. Brown, P.E., Assistant Director of Public Works
James M. Bowser, P.E., Town Engineer
Charles R. Langley, P.E., Senior Project Engineer
Jeff Sanon, P.E., Project Engineer
Mike Roach, P.E., Project Engineer
Doug Terry, Water Resources Division Manager

TOWN OF PALM BEACH

Town Council Meeting on: October 9, 2012

Section of Agenda

Committee Reports

Agenda Title

Modification of Intersection at Miraflores Drive and North Lake Way.

Presenter

H. Paul Brazil, Director of Public Works

Supporting Documents

- Memorandum dated September 24, 2012, from H. Paul Brazil, P.E., Director of Public Works
- Miraflores Drawing

TOWN OF PALM BEACH

Information for Town Council Meeting on: October 9, 2012

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: Authorization for the Miraflores Drive and North Lake Way Intersection Modification

Date: September 24, 2012

STAFF RECOMMENDATION

The Public Works Committee and Town staff recommend that the Town Council approve the proposed modification of the intersection of Miraflores Drive and North Lake Way, and establish a project budget of \$7,000.

GENERAL INFORMATION

Town residents have expressed a concern about the configuration of the intersection of Miraflores Drive and North Lake Way. Due to the intersection geometry, the westbound approach to North Lake Way has limited sight visibility to the south. Additionally, landscaping improvements on the adjacent property further reduces sight visibility for traffic approaching from the south. Please see the attached drawing which illustrates the existing configuration and use versus the staff recommended changes.

The Town's consultant has analyzed the intersection and is recommending changes to alter the use of the "Y" intersection. Currently, two-way traffic is permitted on both the north and south segments of Miraflores Drive. By changing the southerly leg to an eastbound only lane and the northerly segment to a westbound only lane, we will eliminate the sight visibility problem. The cost to make this improvement to the intersection is estimated to be \$5,500. If approved by Town Council, this work will occur after May 1, 2013.

This request was presented to the Public Works committee. The committee voted unanimously to recommend approval by the Town Council.

FUNDING/FISCAL IMPACT

The cost to implement the proposed improvements is estimated at \$7,000, which includes a project contingency. Sufficient funds exist within the Public Works operating budget to implement this project.

Attachment

cc: Jane Struder, Director of Finance
Eric Brown, P.E., Assistant Director of Public Works
James M. Bowser, P.E., Town Engineer
Jeff Sanon, P.E., Project Engineer
Kevin Schanen, P.E., Kimley-Horn and Associates, Inc.



TOWN OF PALM BEACH

Town Council Meeting on: October 9, 2012

Section of Agenda

Committee Reports

Agenda Title

Recommendation to Add Replacement of Generators to the Design Scope of Work for Pump Stations A-39, A-41, A-42, and A-43.

Presenter

H. Paul Brazil, Director of Public Works

Supporting Documents

- Memorandum dated September 24, 2012, from H. Paul Brazil, P.E., Director of Public Works

TOWN OF PALM BEACH

Information for Town Council Meeting on: October 9, 2012

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: Authorization to Add New Generators to the Scope of Work for Pump Stations
A-39, A-41, A-42, and A-43 - Accelerated Capital Improvement Program

Date: September 24, 2012

STAFF RECOMMENDATION

The Public Works Committee and Town Staff recommend that Town Council authorize replacement of the emergency generators to Pump Stations A-39, A-41, A-42, and A-43.

GENERAL INFORMATION

The Accelerated Capital Improvement Program (ACIP) included upgrades to the A-39, A-41, A-42, and A-43 sanitary sewerage pump stations. These stations are located at Phipps Ocean Park, Par 3 Golf Course, in front of 3000 South Ocean Boulevard and in front of 3400 South Ocean Boulevard, respectively. A project element not included in the original scope of work was the replacement of the emergency generators which were installed in the 1960's. Staff postponed adding these generators to the project until the original scope of work improvements were designed and engineering cost estimates prepared.

We have received the engineering cost estimates to upgrade the stations. The improvements total \$987,374. The ACIP program estimated the station upgrades to cost \$1,420,000. Deducting engineering to date, and allowing for the construction of the designed improvements, the project has an uncommitted balance of approximately \$323,000. With engineering, we estimate that the replacement of the four generators to cost \$180,000, well within the available project budget.

This request was presented to the Public Works committee. The committee voted unanimously to recommend approval by the Town Council.

FUNDING/FISCAL IMPACT

Sufficient funds exist within the ACIP to complete this scope of work.

cc: Eric Brown, P.E., Assistant Director of Public Works
James Bowser, P.E., Town Engineer
Jeff Sanon, P.E., Project Engineer
Doug Terry, Water Resources Division Manager

TOWN OF PALM BEACH

Town Council Meeting on: October 9, 2012

Section of Agenda

Committee Reports

Agenda Title

E-3 Force Main Replacement Scope of Work.

Presenter

H. Paul Brazil, Director of Public Works

Supporting Documents

- Memorandum dated September 24, 2012, from H. Paul Brazil, P.E., Director of Public Works

TOWN OF PALM BEACH

Information for Town Council Meeting on: October 9, 2012

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: Authorization to Amend E-3 Force Main Replacement Scope of Work
Accelerated Capital Improvement Program

Date: September 24, 2012

STAFF RECOMMENDATION

Staff recommends that Town Council approve amending the project scope of work for the E-3 Force Main Replacement project to include extending the force main on Lake Trail from Cherry Lane down to the E-6 force main at Lake Trail and Tangier Avenue.

GENERAL INFORMATION

The original scope of services for the E-3 Force Main Replacement was to evaluate, design and bid the replacement of the existing E-3 force main from Garden Road to Cherry Lane. Staff presented at the September 12, 2012, Public Works Committee meeting, a recommendation to amend the scope of work to include an analysis to extend the force main from the intersection of Lake Trail and Cherry Lane down to the E-6 force main at Tangier Avenue, a distance of approximately 2150 feet. The Public Works Committee voted to recommend to Town Council that the revised scope of work for this project be approved.

The sewage from the north end of the island cascades from E-1 to E-2 to E-3 then to the E-6 pump station. Significant portions of this flow travels through gravity mains. The time that it takes to reach the E-6 station allows the formation of hydrogen sulfide gas which creates odor problems at the stations. By extending the E-3 force main to the E-6 force main, we would create a closed system between E-3 and the master pump station at S-2 in Bradley Park. We believe we can virtually eliminate odors at E-6, and will likely save on electricity by extending the force main and bypassing the E-6 pump station.

Staff is recommending that a study be conducted to confirm or deny our beliefs and to provide an analysis of any modifications needed to the E-3 and E-6 pump stations. The analysis will consider the cost savings in pump costs and operation and maintenance of an odor control system at our north end pump stations. The current odor control systems have been relatively ineffective and staff has been considering the need to install a chemical injection system in the north end of the island to control odors. We believe that by extending this force main, we will be able to avoid this chemical injection system and the related annual operation and maintenance costs.

FUNDING/FISCAL IMPACT

Funding for this project will come from the unallocated contingency in the Accelerated Capital Improvement Program 2010 A Bond Series.

cc: Eric Brown, P.E., Assistant Director of Public Works
James M. Bowser, P.E., Town Engineer
Mike Roach, P.E., Project Engineer
Doug Terry, Water Resources Division Manager

TOWN OF PALM BEACH

Town Council Meeting on: October 9, 2012

Section of Agenda

Committee Reports

Agenda Title

Discussion of Proposed Changes to the Roadway Resurfacing Requirements in the Town's Right of Way Manual.

Presenter

H. Paul Brazil, Director of Public Works

Supporting Documents

- Memorandum dated September 25, 2012, from H. Paul Brazil, P.E., Director of Public Works

TOWN OF PALM BEACH

Information for Town Council Meeting on: October 9, 2012

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: Proposed Changes to the Right of Way Manual
Roadway Milling and Resurfacing

Date: September 25, 2012

STAFF RECOMMENDATION

Town staff recommends Town Council consider staff's alternative to amend the Town's Right of Way Manual regarding milling and resurfacing roadways in the Town following significant utility work and to provide any additional alternatives to staff's recommendation for amending said manual.

GENERAL INFORMATION

The September 12, 2012, Public Works Committee meeting included a discussion regarding the extent of the milling and resurfacing that should be required following a significant utility construction project. This discussion follows the Town's A-39 to A-7 Force Main Replacement Project where Town Council elected to pave the entire roadway in lieu of meeting the minimum FDOT milling and resurfacing standards following a roadway excavation. A similar situation exists on North Ocean Boulevard where Florida Public Utilities is replacing its gas main.

The Committee wanted staff to propose a new standard which would leave a project area with the entire roadway paved, in lieu of 100 foot patches, perhaps on one lane or two for a significant distance. Town staff is currently evaluating the following modification to our standards:

For all utility companies working in the Town of Palm Beach, including Town initiated utility projects or resident initiated undergrounding projects, all roadway excavations shall be milled and resurfaced per the Town of Palm Beach Right of Way Manual Standards which requires milling and resurfacing a minimum of 50 feet on each side of an excavation. If the sum total of required milling and resurfacing exceeds 40% of a single block, or exceeds 40% of any linear stretch of roadway of 500 feet or less, it shall be the Town standard that the entire section of roadway be paved from edge of pavement to edge of pavement.

This standard will not apply to any Town roadway which is scheduled to be resurfaced by the Town or any outside agency within one year following completion of the underground work.

As an example, if a roadway were 500 feet long and there are three excavations which require milling and resurfacing 300 feet of roadway, the entity creating the excavations would be required to mill and resurface the entire roadway surface for the 500 foot section. If there were only two excavations, we would be left with two 100 foot sections of new pavement on one side of the roadway.

We are currently evaluating what impact this would have had on recent projects including North Ocean Boulevard. We would like the opportunity to finish this evaluation and present a final recommendation at a future Town Council meeting. We will not issue any permits for substantial projects until Town Council has given final direction.

FUNDING/FISCAL IMPACT

There is no immediate fiscal impact to the Town. However, significant cost impacts may occur on future capital improvement projects.

cc: Eric B. Brown, P.E., Assistant Director of Public Works
Brett Madison, Facilities Maintenance Division Manager
Lynda Cummings, Purchasing Agent

TOWN OF PALM BEACH

Town Council Meeting on: October 9, 2012

Section of Agenda

Committee Reports

Agenda Title

Water Committee Meeting of September 12, 2012, Report

Presenter

David Rosow, Town Council President

Supporting Documents

- Report of the Water Committee Meeting of September 12, 2012

**REPORT OF THE WATER COMMITTEE MEETING HELD ON
WEDNESDAY, SEPTEMBER 12, 2012**

I. CALL TO ORDER AND ROLL CALL

The Water Committee meeting was called to order on Wednesday, September 12, 2012, at 2:07 p.m., in the Town Council Chambers. On roll call, all Committee Members were found to be present.

II. APPROVAL OF AGENDA

Motion was made by Committee Member Pucillo, and seconded by Chairman Rosow, to approve the Agenda. On call for a vote, the motion carried unanimously.

III. PUBLIC COMMENT

Mayor Gail Coniglio reported on the status of the optional surcharge. She stated that Town Manager Elwell, Town Attorney Randolph, and she had met with the Mayor and Attorneys for the City of West Palm Beach, but that progress has been slowing down. She stated that she had a subsequent telephone call from the Mayor of West Palm Beach, and that she has also sent a formal letter to the City Administrator of West Palm Beach to get back on track. She stated that she will report back on the outcome.

Mayor Gail Coniglio also reported that the City of West Palm Beach has a new, consolidated, Water Board; and, that she is the Town's representative, along with Terry Levine. She promised to keep an eye on the new Board to ensure that our water quantity and quality is maintained and protected.

Chairman Rosow recognized that none of what is before the Committee today would have been possible without the efforts of Mayor Coniglio, the Civic Association, Town Manager Elwell, and Terry Levine.

IV. DRAFT ORDINANCE TO EXEMPT OWNERS OF ADVANCED IRRIGATION SYSTEMS FROM DAY-OF-THE-WEEK WATERING RESTRICTIONS

Town Manager Elwell stated that what is before the Committee today is the substance of the proposed ordinance, so that any areas of concern can be addressed before it goes to

the full Town Council. Town Manager Elwell reported that the South Florida Water Management District (SFWMD) has indicated that the Town is able to create a variance procedure, subject to the following:

- The relief would be limited to day-of-the-week restrictions. (Per State Statutes, time of day restrictions, water shortage orders, and all other constraints on landscape watering would continue to apply.)
- The ordinance must include “clear and somewhat demanding” criteria for determining what systems qualify as advanced irrigation systems that are entitled to the regulatory relief provided by the ordinance.
- The Town must maintain a database identifying all properties that qualify for the exemption.
- The ordinance must require qualifying properties to submit annual recertification that their system is continuing to function as designed.
- The ordinance must be approved by the SFWMD before it is adopted by the Town.

Town Manager Elwell stated that Staff is considering administering the program through the permitting process. Upon applying for a permit, the Town would direct property owners to lists of products that qualify as advanced irrigation systems. If they install one of the systems on the list, then they will be added to a list of qualified properties that have been granted the variance. For enforcement purposes, the Town will create a database of all qualified properties that will be maintained in real time and be available to Police and Code Enforcement Officers in the field.

Terry Levine, 2250 Ibis Isle Rd, spoke regarding advanced irrigation system capabilities, and asked what property owners who have already installed qualified systems can do to get a variance.

Town Manager Elwell advised that Staff will get the word out that those owners will need to contact the Town so that they can be included in the database.

Town Manager Elwell stated that Staff is also running the draft ordinance before the City of West Palm Beach, as they are the purveyor of water to the Town. He is not expecting any substantive changes; however, if there are, Staff will bring them back to the Committee before the ordinance goes to the Town Council.

Town Manager Elwell stated that Staff is also looking to better define the term, “periods of sufficient moisture” in the Town’s Code. They are working with the Town Attorney to determine if an amendment to that section is necessary.

Chairman Rosow asked whether the Town would fall under the umbrella of the SFWMD or the City of West Palm Beach.

Town Manager Elwell replied that SFWMD has the authority to require us to take certain additional steps to restrict water usage; but, the City of West Palm Beach does not. He

suggested that we make it clear in the ordinance that all variances must also be approved by the Town Council. Chairman Rosow concurred with that addition.

Chairman Rosow inquired about a previous action requiring that all new irrigation system installations or major redevelopments be advanced irrigation systems.

Town Manager Elwell clarified that requirement is currently in the Town's Code; however, it will be quite awhile before the majority of systems in Town have gotten to that point.

Chairman Rosow suggested a sticker system in lieu of a database.

Town Manger Elwell replied that originally SFWMD wanted to have a flag system; however, Staff felt that was not in keeping with the character of the Town. Staff feels that we can adequately address the enforcement question through the use of the database. We also anticipate that, since this will be a static list, Police and Code Enforcement Officers will become familiar with which properties are on the list. Town Manager Elwell stated that, if the Committee wants, Staff will take another look at whether there should be something more visible.

Chairman Rosow suggested that physical evidence may keep neighbors from reporting other neighbors that have already been granted a variance. He added that the Town may also want to consider charging for the stickers.

Committee Member Pucillo stated that he is okay with a sticker system. He added that whatever administrative mechanism that works should be used.

Town Manager Elwell stated that Staff will take a look at more obvious markers. If they can be incorporated in a logical way, that doesn't create other problems, then Staff will incorporate them into the ordinance.

Motion was made by Committee Member Pucillo, and seconded by Chairman Rosow, to conceptually approve the draft ordinance attached for consideration by the Town Council, subject to any further edits of a relatively minor and conforming nature which may be required before it comes to the Town Council. On call for a vote, the motion carried unanimously.

VI. ANY OTHER MATTERS – None

VII. ADJOURNMENT

There being no further business, the Water Committee Meeting of Wednesday, September 12, 2012, was adjourned at 2:30 p.m.

APPROVED:

David A. Rosow
Chairman

Susan A. Owens, MMC, Town Clerk

Date

TOWN OF PALM BEACH

Town Council Meeting on: October 9, 2012

Section of Agenda

Regular Agenda - Old Business

Agenda Title

Request for Waiver of Code of Ordinances to Allow Extended Work Hours on the Flagler Memorial Bridge. [Ryan Hamrick, Project Manager, PCL Civil Contractors, Inc.]

Presenter

H. Paul Brazil, Director of Public Works

Supporting Documents

- Memorandum dated September 27, 2012, from H. Paul Brazil, P.E., Director of Public Works
- Letter dated September 27, 2012, from Ryan Hamrick, P.E.

TOWN OF PALM BEACH

Information for Town Council Meeting on: October 9, 2012

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: Request for Waiver to Town Code of Ordinances
Flagler Memorial Bridge

Date: September 27, 2012

STAFF RECOMMENDATION

Town staff recommends that Council grant to PCL Civil Constructors a waiver to the Town Code of Ordinances, Section 42-198 to allow limited pile driving and operation of diesel or gasoline driven equipment between December 1st and April 30th, and a waiver to section 42-199, to allow work outside the code allowed work hours and work days, Saturdays, Sundays and holidays for work on the Flagler Memorial Bridge Project. Staff also recommends that extended hours be approved but limited to weekdays December 1st to April 30th unless the project suffers delays and cannot be completed in the time frame dictated by the regulatory agencies, or critical work that must proceed beyond work hours or days. These waivers will be valid through the end of construction of the bridge.

GENERAL INFORMATION

PCL Civil Constructors has requested waivers to the Town Code of Ordinances to facilitate the construction of the new Flagler Memorial Bridge. The waiver requested are similar to those granted to the contractor who constructed the Royal Park Bridge.

A waiver to Section 42-198 is necessary in order to allow pile driving and use of diesel / gasoline driven equipment. A limited number of piles must be driven to set forms used to allow proper alignment of auger cast piles that will support the bridge structure. It is anticipated that pile driving will be limited to a few hours each week. In order to keep the number of lane closures to a minimum, the contractor has proposed pumping concrete from the east end of the bridge (adjacent to the Royal Poinciana Plaza on FDOT right of way) through a pipeline on the bridge's south sidewalk. These pumps will create some noise as well as noise from trucks delivering and unloading the concrete. A typical pour will be between 10 and 15 trucks lasting up to six hours.

A waiver to Section 42-199 is necessary in order to allow heavy equipment to work outside of 8:00 a.m. to 6:00 p.m. May 1st to November 30th and 9 a.m. to 5 p.m. December 1st to April 30th time frames. The contractor's typical work day is 7:00 a.m. to 5:30 p.m., five days a week. The

contractor wants the opportunity to work beyond the normal work hours if a work element must be continuous to completion, such as a concrete pour. If there are weather or mechanical delays, the contractor would want to work on a Saturday (between December 1st to April 30th) to make up the lost time. If there are other special needs that would require Sunday or holiday work, it is requested that the Town Manager be granted authority to consider and approve such requests on a case by case basis.

FUNDING/FISCAL IMPACT

There are no Town funding/fiscal impacts associated with this item.

Attachment

cc: Kirk Blouin, Public Safety Director
John Page, Director of Planning, Zoning and Building
Rachel Houston, Code Enforcement
Eric Brown, P.E., Assistant Director of Public Works
James Bowser, P.E., Town Engineer
Chuck Langley, P.E., Senior Project Engineer
Ryan Hamrick, P.E., PCL Civil Constructors
Jim Hughes, P.E., Florida Department of Transportation
Pete Nissen, P.E., New Millennium
Carl Aiduck, P.E., American Engineering Group, Inc.



CONSTRUCTION LEADERS

September 27, 2012

Mr. James M. Bowser, P.E., Town Engineer
TOWN OF PALM BEACH
Post Office Box 2029
Palm Beach, Florida 33480

RE: **FLAGLER MEMORIAL BRIDGE REPLACEMENT**
Financial Project ID.: 412489-2-52-01
Contract No.: E4K92 County: Palm Beach
TOWN ORDINANCE RELIEF
File No.: 5511001-1-K Letter No.: 066

Dear Mr. Bowser:

PCL Civil Constructors, Inc. is requesting a variance on the following Town Ordinances:

- Work Hours; our standard work hours are from 7:00am to 5:30pm, Monday through Friday. On occasion, concrete pours will run late and we will need to work later in order to complete the pour. We will occasionally have to work Saturdays to make up schedule time for weather delays, etc. We are requesting extended work hours for the occasional late afternoon work and for Saturdays as needed. These extended work hours will be coordinated with you on an as needed basis.
- Pile driving (December 1st – May 31st); there will be a few occasions where spud piles for our templates will require driving with an impact hammer due to hard rock bottom conditions. These templates are temporary structures used to correctly align the permanent foundation and the impact hammer would only be used few hours on each pile bent. We anticipate this occurring 7-10 times total for the foundation work on the east side of the intracoastal for a maximum of only 2-3 hours each occasion and only during normal working hours. We are requesting a variance on these impact hammer activities.

We appreciate the working relationship we have with the Town of Palm Beach and we look forward to continuing this relationship throughout the Flagler Memorial Bridge Project.

Should you have any questions or concerns, please contact the undersigned at (561) 253-6995.

Sincerely,

PCL CIVIL CONSTRUCTORS, INC.

Ryan Hamrick, P.E.
Project Manager

PCL CIVIL CONSTRUCTORS, INC.

215 5th Street, Suite 306, West Palm Beach FL 33401 * Phone: (561) 253-6995 * Fax: (561) 253-6999
(AN EQUAL OPPORTUNITY EMPLOYER)

TOWN OF PALM BEACH

Town Council Meeting on: October 9, 2012

Section of Agenda

Regular Agenda - Old Business

Agenda Title

RESOLUTION NO. 139-2012 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Contract for \$211,980 to Ranger Construction, for the Paving and Resurfacing of North Ocean Boulevard, Establishing a Total Budget of \$273,000 for Said Improvements, and Authorizing the Town Manager to Take Actions Necessary to Complete Said Improvements.

Presenter

H. Paul Brazil, Director of Public Works

Supporting Documents

- Memorandum dated October 1, 2012, from H. Paul Brazil, P.E., Director of Public Works
- Resolution No. 139-2012
- Request for Quote 03-2013
- Southwide Quote

TOWN OF PALM BEACH

Information for Town Council Meeting on: October 9, 2012

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: Award Contract for North Ocean Boulevard Roadway Milling and Resurfacing
Resolution No. 139-2012

Date: October 1, 2012

STAFF RECOMMENDATION

Town staff recommends that Town Council approve Resolution No. 139-2012 authorizing the award of the North Ocean Boulevard Roadway Milling and Paving to Ranger Construction, in the amount of \$211,974.25 per the Village of Wellington Contract ITB#077-12/ENR. The project budget will also include an allowance of \$25,000 for striping and pavement marking, a 15% contingency of \$36,025.75 for a total budget of \$273,000. This contract will be awarded under the condition that Ranger Construction receives a signed contract from the Village of Wellington.

GENERAL INFORMATION

At the September 11, 2012 Town Council meeting, Town Council directed staff to bring back a plan to pave North Ocean Boulevard from Fairview to the Inlet as a result of the ongoing utility work by Florida Public Utilities (FPU). The plan is for the Town to pave those sections of North Ocean Boulevard that would remain after FPU restores the roadway per the Town Right of Way Standards, resulting in a fully restored roadway with no patch work appearance. Since the last Town Council meeting, staff has negotiated with FPU regarding the road restoration responsibilities.

FPU completed the replacement of their gas main over a two year period. The Town's roadway restoration standards changed between the first and second year of work. The first year work only needs to have a suitable pavement patch on the excavated areas. The second year work requires that a minimum of 50 feet of milling and resurfacing be completed on each side of a roadway cut.

In negotiating with Town staff, FPU has agreed to repair those patches from the first year's work under the new Right Of Way standards for utility cuts. On side streets that require milling and resurfacing where the Town has already planned to micro resurface these roadways, FPU has agreed to apply this quantity to milling and resurfacing on North Ocean Boulevard. We believe FPU has been very cooperative in determining what they would be willing to mill and resurface on North Ocean Boulevard and that the Town will receive a net benefit from this collaborative effort.

Using the new Right of Way pavement restoration standards, and applying a credit to the Town for work on the side streets, the quantity of all the FPU required milling and resurfacing on North Ocean Boulevard from Fairview Road to the Inlet equates to approximately 25% of the total roadway surface. This means

the Town would be responsible for the remaining 75% of milling and resurfacing for a uniform pavement appearance.

If Town Council approves the paving of the entire North Ocean Boulevard roadway between Fairview Road and the Inlet, the proposed paving work would commence on or about October 29, 2012, and is planned to be completed on or about November 21, 2012, weather conditions permitting.

Town staff recommends that the paving work be accomplished via a “piggy-back” contract that was awarded by the Village of Wellington. Ranger Construction has successfully completed paving projects in Palm Beach and is currently paving South Ocean Boulevard on the A-39 to A-7 Force Main Replacement project.

FUNDING/FISCAL IMPACT

Sufficient funds are available in the Capital Improvement Program (CIP) Annual Paving Program budget for FY 2013 to complete this work.

SPECIAL CONSIDERATIONS

The impacts to the Town’s annual milling and paving program with the addition of North Ocean Boulevard from Fairview Road to the Inlet, resulted in the postponement of four (4) streets that were identified to be paved in FY2012/2013. Those streets are the 100, 200, 300, and 400 blocks of Peruvian Avenue; Cocoanut Row from Royal Palm Way to Peruvian Avenue; Hibiscus Avenue from Royal Palm Way to Peruvian Avenue; and South Ocean Boulevard from Royal Palm Way to Hammon and El Bravo to Via Marina. Staff had estimated the cost of the four streets to be between \$280,000 and \$300,000. The Town Council has directed staff to prioritize paving work based on the condition of the roadways as opposed to the original plan that worked from north to south regardless of condition. North Ocean Boulevard is now in worse condition than the streets that have been deferred to next year’s program.

PURCHASING REVIEW

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

TOWN ATTORNEY REVIEW

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

Attachments

cc: Eric Brown, P.E., Assistant Director of Public Works
James M. Bowser, P.E., Town Engineer
Brett Madison, Facilities Division Manager
Mike Roach, P.E., Project Engineer

RESOLUTION NO. 139-2012

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AWARDING A CONTRACT FOR \$211,980 TO RANGER CONSTRUCTION, FOR THE PAVING AND RESURFACING OF NORTH OCEAN BOULEVARD, ESTABLISHING A TOTAL BUDGET OF \$273,000 FOR SAID IMPROVEMENTS, AND AUTHORIZING THE TOWN MANAGER TO TAKE ACTIONS NECESSARY TO COMPLETE SAID IMPROVEMENTS.

* * * * *

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

Section 1. Ranger Construction has a pending contract with the Village of Wellington (Contract #077-12/ENR); upon which contract the Town wishes to piggyback thereby awarding a contract in the amount of \$211,980 providing a contingency of \$36,020 and a \$25,000 allowance for striping and pavement marking, to establish a budget of \$273,000 for said work. This contract will be awarded under the condition that Ranger Construction receives a signed contract from the Village of Wellington.

Section 2. The Town Manager, or his designee, is hereby authorized and directed to execute this contract on behalf of the Town of Palm Beach for the roadway paving and resurfacing in the amount of \$211,980 for Ranger Construction.

Section 3. The Town Manager, or his designee, is hereby authorized and directed to take such further actions as may be necessary to effectuate the completion of this paving work, including any necessary change order work as recommended by the Public Works Director.

PASSED AND ADOPTED in a regular adjourned session of Town Council of the Town of Palm Beach this 9th day of October 2012.

Gail L. Coniglio, Mayor

David A. Rosow, Town Council President

Robert N. Wildrick, Council President Pro Tem

William J. Diamond, Town Council Member

ATTEST:

Richard M. Kleid, Town Council Member

Susan A. Owens, MMC, Town Clerk

Michael J. Pucillo, Town Council Member



**TOWN OF PALM BEACH
REQUEST FOR QUOTATION
RFQ No. 03-2013**

Milling and Paving North Ocean Boulevard

INTENT AND SCOPE

It is the intent to obtain pricing, in accordance with the Village of Wellington Annual Milling and Resurfacing bid No. 077-12/ENR, which covers and includes all required labor, materials, equipment and freight necessary for and reasonably incidental for full and complete execution of this project. All terms, conditions and specifications of Village of Wellington Contract for Bid No. 077-12/ENR shall apply.

SCHEDULE OF BID ITEMS

The undersigned as bidder does declare that no other persons other than the bidder herein named has any interest in this bid or in the contract to be taken, and that it is made without any connection with any other person or persons making bid for the same article, and is in all respects fair and without collusion or fraud.

The undersigned further declares that he has carefully examined the specifications and is thoroughly familiar with its provisions and with the quality type and grade of materials called for therein.

The undersigned further declares that he proposes to furnish milling and paving services, as specified, for the following price:

1. TERMS		2. F.O.B.		3.SHIPMENT VIA		4. QUOTATION VALID UNTIL	
Net 30		DESTINATION					
Item	Description /Specifications			Qty	Unit	Unit Cost	Extended Cost
1	ACSC TYPE S III (>200TN ORDERS) Includes Temporary Striping			1823	TN	\$ 89.00	\$ 162,247.00
2	MILL EXISTING ASPHALT PAVEMENT (1")			33151.5	SY	\$ 1.50	\$ 49,727.25
	TOTAL						\$ 211,974.25

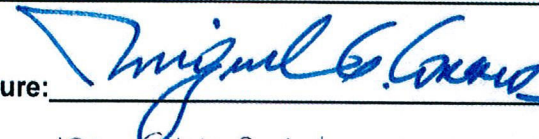
REMARKS: _____

Company Name: RANGER CONSTRUCTION INDUSTRIES Authorized Signature: _____

[Handwritten Signature]

The Proposer certifies that this proposal is submitted in accordance with the specification in its entirety and with full understanding of the conditions governing this RFQ. The undersigned representative submits this proposal and certifies that they are an authorized representative of the Proposer who may legally bind the Proposer.

Firm: RANGER CONSTRUCTION INDUSTRIES

*Signature: 

Name/Title: _____

Miguel G. Correa
Vice President

Address: 101 SANDBURY'S WAY, WEST PALM BEACH, FL Zip: 33411

Federal ID#: 59-2098662

Telephone Number: (561) 793 9400 Fax: (561) 7904332

Date: OCTOBER 01-2012

***Failure to affix signature may result in disqualification of proposal.**

Name of Bidder's Contact Person: BEATRIZ RAMIREZ

Address: 101 SANDBURY'S WAY, WEST PALM BEACH

Phone Number: (561) 793 9400 ext 547 Fax Number: (561) 7904332

E Mail

Address: bramirez@rangerconstruction.com



P.O. Box 202
Loxahatchee, Florida 33470
Phone: (561) 688-8833
Fax: (561) 688-8834



CONFIDENTIAL PRICE QUOTATION

Town of Palm Beach
P.O. Box 2029

West Palm Beach
Florida 33480

Attn: Michael Roach

PHONE # 561-301-1881

FAX # mroach@townofpalmbeach.com

OWNER

PROJECT NUMBER

PROJECT/JOB NAME

N Ocean Blvd Fairview Dr to Inlet /
& Various Roads

FEDERAL AID NUMBER

COUNTY

Palm Beach

BID DATE

We propose to furnish all labor, equipment, and materials to install as per price quotation:
Painted Pavment Markings, Thermoplastic Pavment Markings, and Reflective Pavment Markers
as follows:

Item No.	Description	Qty	Unit	Unit Price	Amount
A	N OCEAN BLVD FAIRVIEW DR TO INLET				
1	6" SOLID YELLOW PAINT	22,488	LF	\$0.19	\$ 4,272.72
2	TURN ARROWS PAINT	7	EA	\$ 22.00	\$ 154.00
3	18" SOLID YELLOW PAINT	52	LF	\$ 0.70	\$ 36.40
4	18" SOLID WHITE PAINT	142	LF	\$ 0.70	\$ 99.40
5	6" SOLID WHITE PAINT	2,301	LF	\$ 0.19	\$ 437.19
B	N OCEAN BLVD FAIRVIEW DR TO INLET				
1	6" SOLID YELLOW THERMO	22,488	LF	\$ 0.50	\$ 11,244.00
2	TURN ARROWS THERMO	7	EA	\$ 38.00	\$ 266.00
3	18" SOLID YELLOW THERMO	52	LF	\$ 1.70	\$ 88.40
4	18" SOLID WHITE THERMO	142	LF	\$ 1.70	\$ 241.40
5	6" SOLID WHITE THERMO	2,301	LF	\$ 0.50	\$ 1,150.50
6	REFLECTIVE PVMT MARKERS A/A	693	EA	\$ 3.50	\$ 2,425.50
7	REFLECTIVE PVMT MARKERS R/C	28	EA	\$ 2.75	\$ 77.00
C	N OCEAN & EDEN				
1	24" SOLID WHITE PAINT	15	LF	\$ 1.15	\$ 17.25
2	24" SOLID WHITE THERMO	15	LF	\$ 2.12	\$ 31.80
D	N OCEAN & GARDEN				
1	24" SOLID WHITE PAINT	15	LF	\$ 1.15	\$ 17.25
2	24" SOLID WHITE THERMO	15	LF	\$ 2.12	\$ 31.80
E	N OCEAN & VIA MARILA				
1	24" SOLID WHITE PAINT	15	LF	\$ 1.15	\$ 17.25
2	24" SOLID WHITE THERMO	15	LF	\$ 2.12	\$ 31.80
F	N OCEAN & ORANGE GROVE				
1	24" SOLID WHITE PAINT	15	LF	\$ 1.15	\$ 17.25
2	24" SOLID WHITE THERMO	15	LF	\$ 2.12	\$ 31.80
G	N OCEAN & ONADAGA				
1	24" SOLID WHITE PAINT	22	LF	\$ 1.15	\$ 25.30
2	24" SOLID WHITE THERMO	22	LF	\$ 2.12	\$ 46.64

The conditions set forth on the attached page are part of this quotation.

9/27/2012

Page 1 of 2

TOTAL \$ 20,760.65

BID # P6429

TOWN OF PALM BEACH

Town Council Meeting on: October 9, 2012

Section of Agenda

Regular Agenda - New Business

Agenda Title

Planning & Zoning Commission Recommendations re: Parking on South County Road.

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Memorandum dated September 24, 2012 from John S. Page

TOWN OF PALM BEACH

Information for Town Council Meeting on: October 9, 2012

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: Planning & Zoning Commission Recommendation:
Exploration of Additional Parking Opportunities Servicing South County Road

Date: September 24, 2012

STAFF RECOMMENDATION

Staff advises that the Town Council consider a recommendation from the Planning & Zoning Commission relative to the possibility of establishing additional off-street parking in close proximity to the retail venues fronting on South County Road.

GENERAL INFORMATION

Planning & Zoning Commissioners initiated a discussion about the increasing number of vacant storefronts on South County Road in May of this year. Their concentration in such close proximity to one another, as well as their increasing frequency, prompted the Commission to delve further into the issue in order to understand (and possibly react) to the factors responsible for shuttering of businesses. A subsequent count of empty storefronts resulted in a finding that 12-14 vacancies existed (several storefronts were transitioning) between Worth Avenue northerly to Seaview Avenue. Continued interest in this issue (including words of encouragement from the Town Council during its July 11, 2012 meeting) prompted the Commission to invite property owners to attend the regular Planning & Zoning Commission meeting on September 14, encouraging them to share thoughts, plans, and/or ideas regarding the future of retailing on South County Road.

Seven persons (property owners, merchants or their representatives) addressed Commissioners on September 14th. Without exception, their primary concern was parking. Collectively, they expressed the following opinions:

- There is a physical shortage of parking options.
- Many believe that \$60 parking tickets discourages repeat customer visitations.
- Expanding residential permit parking on nearby streets has decreased the supply of potential retail parking options.
- A municipal parking garage should be given strong consideration.

- Parking congestion in the area is a concern. Serious consideration should be given to the possibility of creating an off-Island shuttle for employees in the South County Road area.

Although brief comments were also made regarding unfriendly Town perceptions, costly business expenses, various unrelated Town fees, and the need for the Town to be proactive, the single issue of “parking” was the clear message received by the Commission. Mr. Les Evans spoke about creating a public/private partnership to arrange for the financing and operation of a parking garage, and further suggested that he would be personally interested in partnering with the Town to accomplish that need.

Discussion was directed to the availability of potential, future off-street parking improvement sites, including vacant property on Brazilian and Royal Palm Way. Deputy Manager Tom Bradford, present at the meeting, was asked to comment on various parking issues. He briefly addressed the substantial expense of all related aspects (property acquisition or lease, improvement cost and operational expenses thereafter). He suggested that the Town take “baby steps” before pursuing a garage, noting that surface parking should be sufficient at this time. Further, he suggested that parking improvements be structured so that any financial deficits would be covered by owners/merchants rather than at the expense of taxpayers.

Discussion concluded with a motion from Commissioner Klein, seconded by Commissioner Crampton, “that Town Council direct staff to as quickly as possible explore any and all alternatives to acquire either on short term basis by lease or for the long term the purchase of property for the addition of parking spaces and to explore any and all locations that are available and/or come up with any other viable alternative strategies that will do something to enhance the number of parking spaces available.” Motion carried unanimously (6 voting members: Klein, Crampton, Rose, Wideman, Cloninger, Spaziani)

FUNDING/FISCAL IMPACT (if applicable)

There is no immediate cost for staff to explore purchase and/or lease options.

If, however, it is eventually determined that the Town should play a role with the acquisition, lease, and/or construction of parking improvements, there could be significant municipal expenses, all of which would require careful deliberation. Costs would depend, of course, upon the price of acquisition and/or lease, capital expenses, extent of public vs. private investment, generation of parking revenues, etc.

cc: Planning & Zoning Commissioners

TOWN OF PALM BEACH

Town Council Meeting on: October 9, 2012

Section of Agenda

Regular Agenda - New Business

Agenda Title

RESOLUTION NO. 140-2012 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Contract Extension to Christmas Designers Inc., in the Amount of \$97,220.35 for the Installation and Storage of the Holiday Trees, Decorations and Lighting, and Establishing a Budget of \$102,000.

Presenter

H. Paul Brazil, Director of Public Works

Supporting Documents

- Memorandum dated September 27, 2012, from H. Paul Brazil, P.E., Director of Public Works
- Resolution No. 140-2012

TOWN OF PALM BEACH

Information for Town Council Meeting on: October 9, 2012

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: Authorization to Extend Holiday Lighting Contract
Resolution No. 140-2012

Date: September 27, 2012

STAFF RECOMMENDATION

Town staff recommends Town Council approve Resolution No. 140-2012, authorizing the second contract extension for the installation, removal and storage of the holiday trees, decorations and palm tree lighting with Christmas Designers, Inc. Town staff also recommends authorizing the additional installation and removal of frond lighting in the Royal Palm and Coconut Palm trees on Royal Poinciana Way, Royal Palm Way and Worth Avenue in the amount of \$97,220.35 and a project budget of \$102,000.00 is established, pending receipt of donations for funding.

GENERAL INFORMATION

Several years ago, the Town developed a holiday lighting plan for the trees [59 on Royal Poinciana Way, 54 on Royal Palm Way and 103 on Worth Avenue], 93 street lights and for the installation of the holiday trees on Worth Avenue and at the Memorial Fountain. The holiday trees at Worth Avenue and Memorial Fountain are funded from the general account and all other holiday lighting and decorations funded from donations. In FY11 staff conducted a search for a contractor to implement the lighting plan, including set up, removal and storage of all trees and decorations. Christmas Designers, Inc. was the successful bidder [Bid #2011-26] with an annual base cost of \$78,250.35.

In February 2012, due to community recommendation, Council approved a proposal to alter the lighting plan for holiday lighting in the Royal Palm trees on Royal Poinciana Way and Royal Palm Way, and in the coconut palms on Worth Avenue. The approved plan is to light the trunks and fronds in every third tree. Because the original bid #2011-26 is for lighting the trunks only, staff is asking that Council approve modifying the scope of work of the existing vendor contract to include the lighting of the fronds at \$450.00 per location on Royal Palm Way and Royal Poinciana Way and \$210.00 per location on Worth Avenue. The cost of lighting the fronds will increase the overall palm tree lighting cost by \$17,020.00. All other costs will remain the same and the vendor has agreed to maintain all pricing through the remainder of the contract. The cost

of lighting the fronds has been researched and staff has found that this cost is competitive, and is less than the rate charged other municipalities.

The previously approved lighting scheme on Royal Palm Way was for every other tree to be lit. With the new lighting scheme it will require additional wiring and receptacles to be installed. The Public Works operating budget will fund the \$3,000 for the lighting revisions.

The Worth Avenue Association has historically provided funding for the extended rental of the lighting of Worth Avenue trees through the end of April. Their cost would increase by \$1,430.00, from \$1,950.00 to \$3,380.00.

The holiday tree at Bradley Park has been funded by donations the last few years, and that donation amount of approximately \$2,350 would be required again if installation of that holiday tree is desired.

FUNDING/FISCAL IMPACT

The donations required to accomplish the revised holiday lighting scheme total \$75,962. The Town operating budget will continue to pay \$20,350 for the two holiday trees at Worth Avenue and Memorial Fountain. Sufficient funds have been included in the FY13 operating budget for this work. The Worth Ave Association would donate \$3,338 if they choose to continue to extend the rental of the approved palm tree lighting on Worth Avenue for the month of April. If a donor wishes to provide for the Bradley Park holiday tree, an additional \$2,350 is also separately needed.

PURCHASING REVIEW

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

TOWN ATTORNEY REVIEW

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

Attachment

cc: Jane Struder, Director of Finance
Cheryl Somers, Assistant Director of Finance
Eric B. Brown, P.E., Assistant Director of Public Works
Brett Madison, Facilities Maintenance Division Manager
Lynda Cummings, Purchasing Agent

RESOLUTION NO. 140-2012

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING A CONTRACT EXTENSION TO CHRISTMAS DESIGNERS INC., IN THE AMOUNT OF \$97,220.35 FOR THE INSTALLATION AND STORAGE OF THE HOLIDAY TREES, DECORATIONS AND LIGHTING, AND ESTABLISHING A BUDGET OF \$102,000.

* * * * *

WHEREAS, a contract was awarded on October 11, 2011, to Christmas Designers, Inc., to provide the installation and storage of the holiday trees, decorations and lighting for the Town of Palm Beach; and

WHEREAS, Christmas Designers, Inc., has provided acceptable service under that contract; and

WHEREAS, that contract allows for four (4) twelve-month extensions.

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

Section 1. The second contract extension for a period of twelve months, beginning October 11, 2012 and ending October 10, 2013, is hereby approved for Christmas Designers, Inc., for their proposal amount of \$97,220.35, and establishing a total budget of \$102,000 pending receipt of donations.

Section 2. The Town Manager is hereby authorized and directed to execute this contract extension on behalf of the Town of Palm Beach.

Section 3. The Town Manager, or his designee, is hereby authorized and directed to take such further actions as may be necessary to effectuate the implementation of these services, including any necessary change order work as recommended by the Public Works Director.

PASSED AND ADOPTED in a regular adjourned session of Town Council of the Town of Palm Beach this 9th day of October 2012.

Gail L. Coniglio, Mayor

David A. Rosow, Town Council President

Robert N. Wildrick, Council President Pro Tem

William J. Diamond, Town Council Member

ATTEST:

Richard M. Kleid, Town Council Member

Susan A. Owens, MMC, Town Clerk

Michael J. Pucillo, Town Council Member

TOWN OF PALM BEACH

Town Council Meeting on: October 9, 2012

Section of Agenda

Regular Agenda - New Business

Agenda Title

Beach Management Agreement (BMA) Matters.

- a. BMA Application Letter.
- b. BMA Project List.

Presenter

H. Paul Brazil, Director of Public Works

Supporting Documents

- Memorandum dated September 20, 2012, from H. Paul Brazil, P.E., Director of Public Works

TOWN OF PALM BEACH

Information for Town Council Meeting on: October 9, 2012

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: Approvals of State of Florida Department of Environmental Protection (FDEP)
Beach Management Agreement (BMA) Application Letter and Project List

Date: September 20, 2012

STAFF RECOMMENDATION

Town staff recommends Town Council authorize the Town Manager to provide an application letter to the State of Florida Department of Environmental Protection (FDEP) officially expressing the Town's desire to participate in the Palm Beach Island (PBI) Beach Management Agreement (BMA) process. In addition, Town staff recommends Town Council authorize the Town Manager to pursue through the BMA the projects described below.

GENERAL INFORMATION

Since May 16, 2012, FDEP has conducted four (4) public stakeholder meetings pertaining to a Palm Beach Island BMA. We are nearing the end of this process. A draft BMA is being formulated, the final stakeholder meetings are scheduled for October 11 and November 8, and FDEP hopes to achieve final approval of the BMA by the end of 2012.

APPLICATION LETTER

The latest BMA stakeholder meeting was held in Town Council Chambers on September 18, 2012. With completion of this meeting, FDEP has determined that enough local interest for this pilot project has been obtained to request official participation by applicable local sponsors and stakeholders who will be the likely signatories for a potential PBI BMA. FDEP has requested that all the likely signatories submit an application letter, sometime before the last scheduled stakeholder meeting on November 8, 2012, which would commit each entity to officially participate in the BMA process. This is just a formality. The letter will not bind the Town to anything beyond participation in the BMA process.

PROJECT LIST

During the September 18 BMA meeting, FDEP described the projects that they would include within the BMA. The project list is currently limited by the Federal NEPA regulatory review and FDEP's interpretation of "least controversial and most conventional" projects. That is, projects that will not require upfront mitigation for the BMA. The current project list includes:

Sand Transfer Plant Phase II Pipeline Extension – On July 12, 2012, Town staff, Town consultants, and FDEP staff, field investigated the offshore discharge alternative's location. The presence of patchy hardbottom, although highly ephemeral, caused FDEP to determine that the BMA would provide for a second discharge to be placed on the dry beach near Angler Avenue to avoid unnecessary impacts to the natural resources.

Townwide Groin Rehabilitation Program – In September 2012, a peer review of the Coastal Technology Corporation (CTC) "Coastal Structures Plan" was completed by Coastal Planning & Engineering, Inc. (CPE). The review recommended, like the CTC report, that a capital improvement program be initiated to rehabilitate the existing groins Townwide. The CPE review concluded that many of the groins do play a role in storm protection and suggested that a groin rehabilitation program be conducted based on a prioritization of their individual storm protective benefits.

Mid-Town Renourishment Project (with inclusion of one additional groin) – In September 2012, Applied Technology & Management, Inc. completed permit sketches for a modified Mid-Town beach project template. This template has been reduced in width and overall volume to minimize or eliminate future environmental impacts associated with placement, while maintaining an appropriate level of storm protection to the upland properties. Positive feedback was received from FDEP staff regarding the future footprint of this project, including the addition of one groin at the south end of the project.

Phipps Ocean Park / Reach 7 Renourishment Project (no structures) – In September 2012, Humiston & Moore Engineers, Inc. (HME) completed a peer review of the CTC recommended Reach 7 alternatives. HME recommended that the F3 "fill only" alternative will be appropriate for the next beach renourishment application and to continue monitoring for future structural solutions. Additional recommendations included the use of a grain size of approximately 0.25mm, closer to a "native" grain size, rather than a higher grain size that is more costly and unlikely to provide an appreciable benefit. FDEP staff has urged the Town to construct a modified beach fill project before considering coastal structures, such as groins. FDEP will include this approach as the approved Reach 7 project in the BMA. We are still working with FDEP to incorporate language that anticipates future construction of structures on Reach 7 subject to monitoring the performance and impacts of a modified sand only project.

Dune Restoration – The BMA will include a dune restoration alternative for all upland properties on Palm Beach Island. In addition, the Town is working with FDEP staff to include site specific dune restoration for both the Sloan's Curve area in Reach 7 and the Reach 8 beaches south of the Lake Worth Pier.

Projects that are not listed above, such as Lake Worth Inlet Maintenance Dredging Placement Extension Area, Reach 8 Beach Restoration (south of the Lake Worth Pier), and Palm Beach County's Central PBC Comprehensive Erosion Control Project, will require additional regulatory review, a mitigation component, and/or completion of a Federal-mandated Environmental Impact

Statement. These projects will be addressed in Woods Hole Group's peer review of the Town's coastal management program and may continue to be pursued outside the current BMA by the Town and other local sponsors.

FUNDING/FISCAL IMPACT

The Town annually appropriates a significant amount of funding for coastal permitting activities. One of the results from the BMA process is for FDEP to develop a more efficient review and authorization program for projects included in the BMA, saving both time and cost to the Town and other coastal project local sponsors on Palm Beach Island between the Lake Worth Inlet (Palm Beach Inlet) and the South Lake Worth Inlet (Boynton Inlet). The BMA process is expected to be completed by the end of the 2012 calendar year. Any regulatory efficiencies will be included in the Shore Protection Board's development of a proposed FY 2014 Coastal Management Program budget, early in the 2013 calendar year.

cc: Shore Protection Board
Robert Weber, Coastal Coordinator

TOWN OF PALM BEACH

Town Council Meeting on: October 9, 2012

Section of Agenda

Regular Agenda - New Business

Agenda Title

RESOLUTION NO. 142-2012 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Expenditure of \$32,000 to Replace a Portion of the E-6 Force Main Adjacent to the S-2 Pump Station.

Presenter

H. Paul Brazil, Director of Public Works

Supporting Documents

- Memorandum dated September 25, 2012, from H. Paul Brazil, P.E., Director of Public Works
- Resolution No. 142-2012

TOWN OF PALM BEACH

Information for Town Council Meeting on: October 9, 2012

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: Authorization of Funding for the E-6 Force Main Replacement
Pump Station S-2 Inline Booster Station
Accelerated Capital Improvement Program
Resolution No. 142-2012

Date: September 25, 2012

STAFF RECOMMENDATION

Town staff recommends that Town Council approve Resolution No. 142-2012, providing additional funding to the Pump Station S-2 Inline Booster Station project to replace the E-6 Force Main through the S-2 worksite up to the A-5 Pump Station. Staff recommends establishing a budget of \$32,000 for this work.

GENERAL INFORMATION

During the current construction of the S-2 Pump Station it was necessary to relocate a 6 inch gravity sanitary sewer line (a section of the E-6 force main) that runs east of the S-2 building south to the A-5 building. We have determined that it would be advantageous to the Town, from both a cost and disruption standpoint, to include replacing the E-6 Force Main that runs along the east side of the pump station at the same time that the S-2 pump station work is underway.

The E-6 Force Main Replacement is a separately funded Accelerated Capital Improvement Program (ACIP) Project that is scheduled for FY 2013. It is necessary to provide proper cost accounting of these projects, so staff is requesting that funding be provided from the E-6 Force Main Replacement project to pay for this force main replacement rather than expending these funds from the budget for Pump Station S-2 Inline Booster Station project.

The Pump Station S-2 Inline Booster Station project purchase order no. 120891 to Wharton-Smith Inc. will be increased by \$32,000.

This will make the combined project budget \$2,222,000, which is \$110,000 less than originally anticipated in the ACIP.

FUNDING/FISCAL IMPACT

Sufficient funds exist within the ACIP to complete this work. If approved, \$32,000 will be allocated from the E-6 Force Main Replacement project.

PURCHASING REVIEW

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

TOWN ATTORNEY REVIEW

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

cc: Eric B. Brown, P.E., Assistant Director of Public Works
 James M. Bowser, P.E., Town Engineer
 Charles R. Langley, P.E., Senior Project Engineer
 Doug Terry, Water Resources Division Manager

RESOLUTION NO. 142-2012

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE EXPENDITURE OF \$32,000 TO REPLACE A PORTION OF THE E-6 FORCE MAIN ADJACENT TO THE S-2 PUMP STATION.

* * * * *

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 the funding of the replacement of a portion of the E-6 force main adjacent to the S-2 pump station in the amount of \$32,000 from the Town's Accelerated Capital Improvement Program bond fund.

Section 2. The funding is to be added to Purchase Order No. 120981 issued to Wharton-Smith Inc. for the Pump Station S-2 Inline Booster Station for replacement of a portion of the E-6 force main.

Section 3. The Town Manager is hereby authorized and directed to execute this change on behalf of the Town of Palm Beach for this improvement.

Section 4. The Town Manager, or his designee, is hereby authorized and directed to take such further actions as may be necessary to effectuate the completion of the said project work, including any necessary change order work as recommended by the Public Works Director.

PASSED AND ADOPTED in a regular adjourned session of Town Council of the Town of Palm Beach this 9th day of October 2012.

Gail L. Coniglio, Mayor

David A. Rosow, Town Council President

Robert N. Wildrick, Council President Pro Tem

William J. Diamond, Town Council Member

ATTEST:

Richard M. Kleid, Town Council Member

Susan A. Owens, MMC, Town Clerk

Michael J. Pucillo, Town Council Member

TOWN OF PALM BEACH

Town Council Meeting on: October 9, 2012

Section of Agenda

Regular Agenda - New Business

Agenda Title

Insurance Matters

- a. Health Insurance Update and Proposed Premium Rates for Calendar Year 2013.
- b. RESOLUTION NO. 138-2012 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Contract in an Amount not to Exceed \$75,000 to Minnesota Life, to Provide Group Life, Accidental Death and Dismemberment, and Supplemental Life Insurance and Authorizing the Town Manager to Take Action Necessary to Complete Said Services.

Presenter

Danielle Olson, Director of Human Resources

Supporting Documents

- Memorandum dated October 2, 2012, from Danielle Olson, Director of Human Resources
- Resolution No. 138-2012
- Exhibit A
- Exhibit B
- Exhibit C
- Exhibit D
- Exhibit E
- Exhibit F
- Exhibit G

TOWN OF PALM BEACH

Information for Town Council Meeting on: October 9, 2012

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: Danielle Olson, Director of Human Resources

Re: Health Insurance Update and Rates for Calendar Year 2013

Date: October 2, 2012

STAFF RECOMMENDATION

Staff recommends Town Council approve the health insurance premium rates for 2013 as set forth herein and approve Resolution No. 138-2012 authorizing the Town Manager to enter into a contract with Minnesota Life to provide Group Life, Accidental Death and Dismemberment, and Supplemental Life Insurance Services in an amount not to exceed \$75,000.

GENERAL INFORMATION

The Actuarial Services Division of Gallagher Benefit Services, Inc. (GBS) has calculated the medical and prescription insurance premiums for calendar year 2013. Premium rates are established by analyzing past medical claims and fixed costs experience, as well as medical trend assumptions of anticipated increases in 2013. The actuarial evaluation of the claims experience conducted by GBS identifies the premium rates for each group and maximum allowable premium that may be charged to retirees based on state statute limitations.

Based on these facts and the assumptions made by the actuary, the overall increase in healthcare costs for the 2013 calendar year is projected at 4.2% which is 2.3% lower than the current national trend of 6.5%. Premiums for active employees and retirees are described within the attached exhibits. The summary of benefits with employee biweekly premiums are shown in Exhibit A and the premiums rates including cost sharing between the Town and employee are shown in Exhibit B. The Retirees Sliding Scale and insurance premiums for 2013 are presented in Exhibit C, along with the actuarial determination of the maximum allowable contribution percentages in Exhibit D. Exhibit E provides the detailed analysis conducted by GBS describing the impact to overall, employee, and Town plan funding.

Medical Plan Analysis

The overall experience in the 2012 plan year showed improvement over 2011. Year to date, the plan experienced a total of five high claims adding up to \$795,411; 28% of total claims cost. The Town has received a total of \$295,411 in specific reimbursements from Symetra, the Town's stop loss carrier, in addition to \$34,713 from the Retiree Drug Subsidy program. The money from this program is being used to offset total retiree plan costs.

A review was conducted considering premium costs within the wider scope of the market. The Kaiser Family Foundation (Kaiser) and the Health Research & Educational Trust (HRET) conducts an annual national survey of nonfederal private and public employers with three or more employees to provide current information about the nature of employer-sponsored health benefits. According to the 2012 Kaiser/HRET survey, the Town's annual premiums are below the national average reported. The premium for the Base PPO plan is less than 1% below and the HMO plan is 29.3% below the national average.

Dental Insurance Coverage and Premiums

There will be a 2.5% increase to the 2013 dental premiums. The increase comes after two years of no increases for either the Town or the employee.

Stop Loss Analysis

GBS has reviewed the stop loss coverage to determine if an increase in the specific deductible from \$100,000 to \$125,000 would provide plan savings. The analysis estimated a \$53,000 savings in overall plan costs. However, with a historical plan average of five high loss claims per year, the savings would be negated due to the additional \$25,000 per claim that the Town would need to pay prior to the offset of the reinsurance. Therefore, staff does not recommend a change to the current \$100,000 stop loss coverage but will continue to monitor the coverage in the future.

Group Life, Accidental Death & Dismemberment and Supplemental Life Insurance

Hartford Life Insurance Company has been providing Group Life, Accidental Death & Dismemberment (AD&D) and Supplemental Life Insurance coverage for Town employees since January 2010. The renewal for plan year 2013 presented to the Town included a 45.7% increase to the Group Life and AD&D premiums. As a result, Staff conducted a Request for Proposal (RFP) for aforesaid services.

A Selection Committee was formed consisting of Cheryl Somers, Assistant Finance Director, Eric Brown, Assistant Public Works Director, Brodie Atwater, Assistant Fire Chief and Kennie Wells, Assistant Human Resources Director. Danielle Olson, Human Resources Director and Darcel Walker, Consultant from Willis of Florida participated as non-voting members. (The meeting was assisted by Purchasing staff members Adis Pedraza and John Cmar, non-voting).

On September 28, 2012, the selection committee met to review proposals from seven vendors: Symetra Life Insurance, Hartford Life and Accident Insurance, Kanawha Insurance Company (Humana), Florida Combined Life (Florida Blue), Life Insurance Company of North America (Cigna), MetLife, and Minnesota Life. The proposals were reviewed along with a cost and benefit summary report prepared by Willis (Exhibit F). After a thorough review of the proposals, the selection committee recommends Minnesota Life, as the highest ranked proposer, be retained to provide the services. Minnesota Life offered the most competitive quote (7.3% lower than the current rate and 53% lower than the proposal from the Town's current vendor) while keeping many of the same value-added benefits offered by the current vendor. The final ranking memo is enclosed under Exhibit G.

Fiscal Year 2013

At the August 14, 2012 Town Council meeting, the Human Resources Department received approval to contract with Willis of Florida for Broker and Actuarial services. Together with Willis, the Department will be analyzing ways to improve efficiency while sustaining service levels to our internal clients (employees), ensure legal compliance with the Patient Protection and Affordable Care Act (PPACA), and maintain programs in a fiscally responsible manner. Programs under evaluation include but are not limited to:

- ♦ Evaluate the medical, dental, and vision plans by performing a claims, discounts, and fixed cost comparison to maximize health savings;
- ♦ Review operations of the Town clinic in order to identify services that can be provided in-house such as employee physicals, clinical treatment, and pharmaceutical services;
- ♦ Enhance the existing wellness program offerings following a thorough analysis of plan utilization; implementation of programs that will help reduce overall healthcare costs through preventative testing, and early diagnosis of current/future health conditions; and
- ♦ Ensure compliance and a proactive approach to mandatory changes resulting from the PPACA for plan year 2014.

FUNDING/FISCAL IMPACT

Sufficient funds have been included in the FY13 budget to provide for the Town's share of expenses for the healthcare plan as proposed herein.

PURCHASING REVIEW

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

TOWN ATTORNEY REVIEW

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

Attachments

DO:kw

C: Cheryl Somers, Assistant Director of Finance
Brodie Atwater, Assistant Fire Rescue Chief
Eric Brown, Assistant Director of Public Works
Kennie Wells, Assistant Director of Human Resources
Lynda Cummings, Purchasing Agent

RESOLUTION NO. 138-2012

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AWARDING A CONTRACT IN AN AMOUNT NOT TO EXCEED \$75,000 TO MINNESOTA LIFE, TO PROVIDE GROUP LIFE, ACCIDENTAL DEATH AND DISMEMBERMENT, AND SUPPLEMENTAL LIFE INSURANCE AND AUTHORIZING THE TOWN MANAGER TO TAKE ACTIONS NECESSARY TO COMPLETE SAID SERVICES.

* * * * *

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

Section 1. The Town of Palm Beach Group Life, Accidental Death and Dismemberment, and Supplemental Life Insurance contract is hereby awarded to Minnesota Life, for an amount not to exceed \$75,000.

Section 2. The Town Manager is hereby authorized and directed to execute a contract on behalf of the Town of Palm Beach for Group Life, Accidental Death and Dismemberment, and Supplemental Life Insurance with Minnesota Life.

Section 3. The Town Manager, or his designee, is hereby authorized and directed to take such further actions as may be necessary to effectuate this contract for Group Life, Accidental Death and Dismemberment, and Supplemental Life Insurance services.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 9th day of October 2012.

Gail L. Coniglio, Mayor

David A. Rosow, Town Council President

Robert N. Wildrick, Town Council President Pro Tem

William J. Diamond, Town Council Member

ATTEST:

Richard M. Kleid, Town Council Member

Susan Owens, MMC, Town Clerk

Michael J. Pucillo, Town Council Member



Medical Plan Summary of Benefits
Effective January 1, 2013

Exhibit A

	Blue Cross Blue Shield BlueChoice Buy UP PPO		Blue Cross Blue Shield BlueChoice Base PPO Plan		Blue Cross Blue Shield BlueCare HMO
Dependents	Bi-weekly		Bi-weekly		Bi-weekly
Employee	\$ 35.15		\$ 0		\$ 0
Employee + 1 Dependent	\$ 129.01		\$ 52.87		\$ 50.69
Employee + 2 Dependent	\$ 222.87		\$ 105.74		\$ 101.37
Employee with 3+ Dependents	\$ 316.74		\$ 158.62		\$ 152.05
Benefit Level	In-Network	Out of Network	In-Network	Out of Network	In-Network
Maximum Lifetime Benefit	Unlimited		Unlimited		Unlimited
Annual Deductible	*\$350		*\$600		N/A
Family Deductible	*\$1050		*\$1,800		N/A
Maximum Annual Out of Pocket	\$1,500		\$1,500		\$1,500
Maximum Family Out of Pocket	\$4,500		\$4,500		\$3,000
Co-Insurance	90%	70%	80%	60%	N/A
Physician Office Visit	*\$25 copay	Ded then 70%	*\$30 copay	Ded then 60%	*\$20 copay
Specialist Office Visit	*\$40 copay	Ded then 70%	*\$45 copay	Ded then 60%	*\$40 copay
Convenience Care Center (Walk-in Clinic)	*\$25 copay	Ded then 70%	*\$30 copay	Ded then 60%	*\$20 copay
Urgent Care Centers	\$30 copay	Ded then 70%	\$35 copay	Ded then 60%	*\$30 copay
All Lab and X-Ray	Ded Waived, then 90%	Ded Waived, then 70%	Ded Waived, then 80%	Ded waived, then 60%	\$0 copay
Wellcare Visits Maximum Adult Annual Exam	*Unlimited *\$0 copay,	*Unlimited 70%, Ded Waived,	*Unlimited *\$0 copay,	Unlimited 60%, Ded Waived,	*\$0 copay
Wellness Child Health OB/GYN	*\$0 copay *\$0 copay	70% Ded waived 70% Ded waived	*\$0 copay *\$0 copay	60% Ded waived 60% Ded waived	*\$0 copay *\$0 copay
Emergency Room/Hospital	Ded then 90% (Ded waived upon admission)	Ded then 90% (Ded waived upon admission)	Ded then 80% (Ded waived upon admission)	Ded then 80% (Ded waived upon admission)	\$115 copay
Hospital Per Admission Deductible (PAD)	\$0	\$300 per admission	\$0	\$300 per admission	N/A
Inpatient Hospital	Ded then 90%	PAD (\$300) + Ded then 70%	Ded then 80%	PAD (\$300) + Ded then 60%	\$500 copay per admission
Maternity Physician	*40 copay	Ded then \$70	*\$45 copay	Ded then 60%	\$40 copay – initial OB visit
Hospital	Ded then 90%	Ded + PAD (\$300) then 70%	Ded then 80%	Ded + PAD (\$300), then 60%	\$500 per admission
Outpatient Surgery (facility)	Ded then 90%	Ded then 70%	Ded then 80%	Ded then 60%	\$100 copay
Home Health Care	Ded then 90% 50 visits per calendar year	Ded then 70% 50 visits calendar year	Ded then 80% 20 visits per calendar year	Ded then 60% 20 visits per calendar year	\$0 copay
Hospice	Ded then 90%	Ded then 70%	Ded then 80%	Ded then 60%	\$0 copay
Skilled Nursing Facility	Ded then 90% 60 days per calendar year max	Ded then 70% 60 days calendar year max	Ded then 80% 60 days per calendar year max	Ded then 60% 60 days per calendar year max	\$0 copay 90 days per calendar year max
Durable Medical Equipment	Ded then 90%	Ded then 70%	Ded the 80%	Ded then 60%	\$0 copay



Medical Plan Summary of Benefits Effective January 1, 2013

	Blue Cross Blue Shield BlueChoice Buy UP PPO		Blue Cross Blue Shield BlueChoice Base PPO Plan		Blue Cross Blue Shield BlueCare HMO
Benefit Level	In-Network	Out of Network	In-Network	Out of Network	In-Network
MRI	Ded then 90%	Ded then 70%	Ded then 80%	Ded then 60%	\$100 Outpatient Facility/ Hospital Admission Fees Otherwise
Inpatient Mental/Nervous	Ded then 90% 30 days per calendar year	Ded + PAD(\$300), then 70% 30 days per calendar year	Ded then 80% 30 days per calendar year	Ded + PAD(\$300), then 60%, 30 days per calendar year	\$500 per admission, 30 days per calendar year
Outpatient Mental/Nervous	*\$40 copay 20 visits per calendar year	Ded then 70% 20 visits per calendar year	*\$45 copay 20 visits per calendar year	Ded then 60% 20 visits per cal year	*\$40 copay 20 visits per calendar year
Inpatient Substance Abuse No Annual Maximum *	Ded then 90%	Ded + PAD (\$300), then 70%	Ded then 80%	Ded + PAD(\$300), then 60%	\$500 per admission
Outpatient Substance Abuse No Annual Maximum *	*\$40 copay	Ded then 70%	*\$45 copay	Ded then 60%	*\$40 copay, 20 visits per calendar year
Combined Therapies (Physical, Speech, Cardiac, Occupational, etc.)	60 Visits Per Calendar Year		60 Visits Per Calendar Year		\$5 copay, Office/Outpatient Facility
Prescription Drugs (WHI) 30 Day Supply	Generic Preferred Non-Preferred	\$10 *\$30 \$30 copay + 50% of cost	\$10 *\$35 \$40 copay + 50% of cost		\$10 *\$30 \$30 copay + 50% of cost
Mail Order Prescription Drugs (WHI) 90 Day Supply	Generic Preferred Non-Preferred	\$20 *\$60 \$60 copay + 50% of cost	\$20 *\$70 \$80 copay + 50% of cost		\$20 *\$60 \$60 copay + 50% of cost

* Plan Changes effective January 1, 2013

** This is a summary of benefits and not a contract. All benefits are subject to provisions, exclusions, and limitations set forth in the master contract.

*** Out of Network benefits are subject to allowance.

Services provided at participating Blue Cross & Blue Shield Hospitals do not guarantee emergency room physicians and/or other providers are also Blue Cross & Blue Shield providers. Treatment by an emergency room physician or other provider not contracted with Blue Cross & Blue Shield will result in benefits being reimbursed at the out of network level.

TOWN OF PALM BEACH - MEDICAL PREMIUM RATES FOR 2013

Plan	Tier	Monthly Premiums		2012 to 2013 Premium Difference		Town of Palm Beach				Employee					
		2013	2012	%	\$	Paid Annually		Cost Sharing	%	\$	Paid Annually		Cost Sharing	%	\$
BUY UP PPO	Employee	\$484.58	\$460.69	5.2%	\$23.89	\$4,901.16	\$4,718.76	85%		\$182.40	\$913.80	\$809.52	15%		\$104.28
	1 Dependent	\$547.04	\$516.05	6.0%	\$30.99	\$4,124.04	\$3,951.81	64%		\$172.23	\$2,440.44	\$2,240.79	36%		\$199.65
	2 Dependents	\$1,094.09	\$1,032.11	6.0%	\$61.98	\$8,248.20	\$7,903.71	64%		\$344.49	\$4,880.88	\$4,481.61	36%		\$399.27
	3+ Dependents	\$1,641.13	\$1,548.16	6.0%	\$92.97	\$12,372.24	\$11,855.52	64%		\$516.72	\$7,321.32	\$6,722.40	36%		\$598.92
BASE PPO	Employee	\$408.43	\$393.23	3.9%	\$15.20	\$4,901.16	\$4,718.76	100%		\$182.40	\$0.00	\$0.00	0%		\$0.00
	1 Dependent	\$458.23	\$439.09	4.4%	\$19.14	\$4,124.04	\$3,951.81	75%		\$172.23	\$1,374.72	\$1,317.27	25%		\$57.45
	2 Dependents	\$916.46	\$878.19	4.4%	\$38.27	\$8,248.20	\$7,903.71	75%		\$344.49	\$2,749.32	\$2,634.57	25%		\$114.75
	3+ Dependents	\$1,374.69	\$1,317.28	4.4%	\$57.41	\$12,372.24	\$11,855.52	75%		\$516.72	\$4,124.04	\$3,951.84	25%		\$172.20
HMO	Employee	\$388.21	\$382.84	1.4%	\$5.37	\$4,658.52	\$4,594.08	100%		\$64.44	\$0.00	\$0.00	0%		\$0.00
	1 Dependent	\$439.27	\$430.37	2.1%	\$8.90	\$3,953.40	\$3,873.33	75%		\$80.07	\$1,317.84	\$1,291.11	25%		\$26.73
	2 Dependents	\$878.53	\$860.74	2.1%	\$17.79	\$7,906.80	\$7,746.66	75%		\$160.14	\$2,635.56	\$2,582.22	25%		\$53.34
	3+ Dependents	\$1,317.80	\$1,291.11	2.1%	\$26.69	\$11,860.20	\$11,619.99	75%		\$240.21	\$3,953.40	\$3,873.33	25%		\$80.07



Buy Up PPO

Retiree Sliding Scale Insurance Premium Rates 2013

Years of Service	Q1		Q2		Q3		Q4	
25 + years	50%		52%		56%		Maximum	
	Retiree	Non-Medicare	Medicare	Non-Medicare	Medicare	Non-Medicare	Non-Medicare	Medicare
	1 Dependent	\$ 474.29	\$ 234.02	\$ 493.26	\$ 243.38	\$ 531.20	\$ 652.14	\$ 321.78
	2 Dependents	\$ 526.45	\$ 261.36	\$ 547.51	\$ 271.81	\$ 589.62	\$ 708.64	\$ 351.81
	3 Dependents	\$ 799.97		\$ 831.97		\$ 895.97	\$ 1,103.82	
20 - 24 years	52%		56%		58%		Maximum	
	Retiree	Non-Medicare	Medicare	Non-Medicare	Medicare	Non-Medicare	Non-Medicare	Medicare
	1 Dependent	\$ 493.26	\$ 243.38	\$ 531.20	\$ 262.10	\$ 550.17	\$ 652.14	\$ 321.78
	2 Dependents	\$ 547.51	\$ 271.81	\$ 589.62	\$ 292.72	\$ 610.68	\$ 708.64	\$ 351.81
	3 Dependents	\$ 831.97		\$ 895.97		\$ 927.97	\$ 1,103.82	
15 - 19 years	56%		58%		60%		Maximum	
	Retiree	Non-Medicare	Medicare	Non-Medicare	Medicare	Non-Medicare	Non-Medicare	Medicare
	1 Dependent	\$ 531.20	\$ 262.10	\$ 550.17	\$ 271.46	\$ 569.14	\$ 652.14	\$ 321.78
	2 Dependents	\$ 589.62	\$ 292.72	\$ 610.68	\$ 303.18	\$ 631.74	\$ 708.64	\$ 351.81
	3 Dependents	\$ 895.97		\$ 927.97		\$ 959.96	\$ 1,103.82	
10 - 14 years	Maximum		Maximum		Maximum		Maximum	
	Retiree	Non-Medicare	Medicare	Non-Medicare	Medicare	Non-Medicare	Non-Medicare	Medicare
	1 Dependent	\$ 652.14	\$ 321.78	\$ 652.14	\$ 321.78	\$ 652.14	\$ 652.14	\$ 321.78
	2 Dependents	\$ 708.64	\$ 351.81	\$ 708.64	\$ 351.81	\$ 708.64	\$ 708.64	\$ 351.81
	3 Dependents	\$ 1,103.82		\$ 1,103.82		\$ 1,103.82	\$ 1,103.82	

Monthly Pension Earnings		
Quartile	Minimum	Maximum
Q1	\$ -	\$ 1,488.73
Q2	\$ 1,488.74	\$ 2,654.16
Q3	\$ 2,654.17	\$ 4,198.72
Q4	\$ 4,198.73	or greater



Base PPO

Retiree Sliding Scale Insurance Premium Rates 2013

Years of Service	Q1		Q2		Q3		Q4	
25 + years	50%		52%		56%		Maximum	
	Retiree	Non-Medicare	Medicare	Non-Medicare	Medicare	Non-Medicare	Non-Medicare	Medicare
	1 Dependent	\$ 411.31	\$ 201.01	\$ 427.76	\$ 209.05	\$ 460.67	\$ 549.65	\$ 268.62
	2 Dependents	\$ 455.66	\$ 224.25	\$ 473.88	\$ 233.22	\$ 510.33	\$ 593.59	\$ 292.13
	3 Dependents	\$ 684.77		\$ 712.16		\$ 766.94	\$ 924.61	
20 - 24 years	52%		56%		58%		Maximum	
	Retiree	Non-Medicare	Medicare	Non-Medicare	Medicare	Non-Medicare	Non-Medicare	Medicare
	1 Dependent	\$ 427.76	\$ 209.05	\$ 460.67	\$ 225.13	\$ 477.12	\$ 549.65	\$ 268.62
	2 Dependents	\$ 473.88	\$ 233.22	\$ 510.33	\$ 251.16	\$ 528.56	\$ 593.59	\$ 292.13
	3 Dependents	\$ 712.16		\$ 766.94		\$ 794.33	\$ 924.61	
15 - 19 years	56%		58%		60%		Maximum	
	Retiree	Non-Medicare	Medicare	Non-Medicare	Medicare	Non-Medicare	Non-Medicare	Medicare
	1 Dependent	\$ 460.67	\$ 225.13	\$ 477.12	\$ 233.17	\$ 493.57	\$ 549.65	\$ 268.62
	2 Dependents	\$ 510.33	\$ 251.16	\$ 528.56	\$ 260.13	\$ 546.79	\$ 593.59	\$ 292.13
	3 Dependents	\$ 766.94		\$ 794.33		\$ 821.72	\$ 924.61	
10 - 14 years	Maximum		Maximum		Maximum		Maximum	
	Retiree	Non-Medicare	Medicare	Non-Medicare	Medicare	Non-Medicare	Non-Medicare	Medicare
	1 Dependent	\$ 549.65	\$ 268.62	\$ 549.65	\$ 268.62	\$ 549.65	\$ 549.65	\$ 268.62
	2 Dependents	\$ 593.59	\$ 292.13	\$ 593.59	\$ 292.13	\$ 593.59	\$ 593.59	\$ 292.13
	3 Dependents	\$ 924.61		\$ 924.61		\$ 924.61	\$ 924.61	

Monthly Pension Earnings		
Quartile	Minimum	Maximum
Q1	\$ -	\$ 1,488.73
Q2	\$ 1,488.74	\$ 2,654.16
Q3	\$ 2,654.17	\$ 4,198.72
Q4	\$ 4,198.73	or greater



HMO Retiree Sliding Scale Insurance Premium Rates 2013

Years of Service	Q1		Q2		Q3		Q4	
25 + years	50%		52%		56%		Maximum	
	Retiree	Non-Medicare	Medicare	Non-Medicare	Medicare	Non-Medicare	Medicare	Non-Medicare
	1 Dependent	\$ 408.34		\$ 424.67		\$ 457.34		\$ 523.65
	2 Dependents	\$ 454.03		\$ 472.19		\$ 508.51		\$ 569.02
	3 Dependents	\$ 673.67		\$ 700.61		\$ 754.50		\$ 886.35
20 - 24 years	52%		56%		58%		Maximum	
	Retiree	Non-Medicare	Medicare	Non-Medicare	Medicare	Non-Medicare	Medicare	Non-Medicare
	1 Dependent	\$ 424.67		\$ 457.34		\$ 473.67		\$ 523.65
	2 Dependents	\$ 472.19		\$ 508.51		\$ 526.67		\$ 569.02
	3 Dependents	\$ 700.61		\$ 754.50		\$ 781.45		\$ 886.35
15 - 19 years	56%		58%		60%		Maximum	
	Retiree	Non-Medicare	Medicare	Non-Medicare	Medicare	Non-Medicare	Medicare	Non-Medicare
	1 Dependent	\$ 457.34		\$ 473.67		\$ 490.00		\$ 523.65
	2 Dependents	\$ 508.51		\$ 526.67		\$ 544.84		\$ 569.02
	3 Dependents	\$ 754.50		\$ 781.45		\$ 808.40		\$ 886.35
10 - 14 years	Maximum		Maximum		Maximum		Maximum	
	Retiree	Non-Medicare	Medicare	Non-Medicare	Medicare	Non-Medicare	Medicare	Non-Medicare
	1 Dependent	\$ 523.65		\$ 523.65		\$ 523.65		\$ 523.65
	2 Dependents	\$ 569.02		\$ 569.02		\$ 569.02		\$ 569.02
	3 Dependents	\$ 886.35		\$ 886.35		\$ 886.35		\$ 886.35
10 - 14 years	Maximum		Maximum		Maximum		Maximum	
	Retiree	Non-Medicare	Medicare	Non-Medicare	Medicare	Non-Medicare	Medicare	Non-Medicare
	1 Dependent	\$ 1,368.58		\$ 1,368.58		\$ 1,368.58		\$ 1,368.58
	2 Dependents							
	3 Dependents							

Monthly Pension Earnings			
Quartile	Minimum		Maximum
Q1	\$	-	\$ 1,488.73
Q2	\$	1,488.74	\$ 2,654.16
Q3	\$	2,654.17	\$ 4,198.72
Q4	\$	4,198.73	or greater

TOWN OF PALM BEACH

MAXIMUM PREMIUMS CHARGEABLE - RETIREES

Pursuant to F.S. 112.0801, there is a limit as to how much of the Total Actuarial Premium may be passed on to retirees of governmental entities. The law requires that the employee portion of the premium rates for non-Medicare retirees does not exceed 100% of the rates based on the commingled experience of the actives and non-Medicare retirees. It allows for a separate rate calculation for Medicare eligible retirees in recognition of the fact that they are less costly to the health plan than non-Medicare retirees. If the Medicare retirees are experience rated separately, the rates they are charged cannot exceed the lesser of 100% of their experience rate and 100% of the cost of the active group. The Maximum Retiree Contribution % is the maximum % of the actuarial premium that retirees can be charged without violating F.S. 112.0801. The Maximum Premium Chargeable is the corresponding maximum monthly premium rate that retirees can be charged.

	Total Actuarial Premium	Maximum Retiree Contribution %	Maximum Premium Chargeable
<u>Buy-Up PPO</u>			
Medicare Retiree Coverage	\$468.04	100.0%	\$468.04
Non Medicare Retiree Coverage	\$948.57	68.7%	\$652.14
1 Medicare Dependent	\$522.72	100.0%	\$522.72
1 Non Medicare Dependent	\$1,052.90	67.3%	\$708.64
2 Non Medicare Dependents	\$1,599.94	69.0%	\$1,103.82
3+ Non Medicare Dependents	\$2,146.99	79.4%	\$1,704.36
<u>Base PPO</u>			
Medicare Retiree Coverage	\$402.02	100.0%	\$402.02
Non Medicare Retiree Coverage	\$822.64	66.8%	\$549.65
1 Medicare Dependent	\$448.50	100.0%	\$448.50
1 Non Medicare Dependent	\$911.31	65.1%	\$593.59
2 Non Medicare Dependents	\$1,369.54	67.5%	\$924.61
3+ Non Medicare Dependents	\$1,827.77	78.1%	\$1,427.65
<u>HMO</u>			
Non Medicare Retiree Coverage	\$816.67	64.1%	\$523.65
1 Non Medicare Dependent	\$908.06	62.7%	\$569.02
2 Non Medicare Dependents	\$1,347.33	65.8%	\$886.35
3+ Non Medicare Dependents	\$1,786.60	76.6%	\$1,368.58

Town of Palm Beach Medical Plan 2012 and Proposed 2013 Funding Rates

Exhibit E

Preliminary Recommended Funding With Employer Contribution = 100% of Employee and 75% of Dependent Base Plan Rates & Retiree Rates = 61% Average

Current Funding FY 2012				Proposed Funding FY 2013			
Plan	Tier	Projected Enrollees	Total Rate	EE Contribution	EE Cont %	Town Funding	
Buy-Up PPO	EE	115	\$480.69	\$67.46		\$393.23	
	1 Dep	49	\$516.05	\$186.73	16%	\$329.32	\$408.43
	2 Deps	51	\$1,032.10	\$373.47	37%	\$658.63	\$343.67
	3+ Deps	14	\$1,548.15	\$560.20	37%	\$987.95	\$687.35
	Monthly Funding		\$152,577	\$43,797	30% (5.7% + or -)	\$108,780	\$1,031.02 (9.6% + or -) 4.2%
Buy-Up PPO	Retiree	65	\$845.23	\$515.59	61%	\$329.64	\$369.94
	Ret Medicare	76	\$458.34	\$279.59	61%	\$178.75	\$182.54
	1 Dependent	23	\$997.18	\$608.28	61%	\$388.90	\$410.63
	Dep Medicare	35	\$544.44	\$332.11	61%	\$212.33	\$203.86
	2 Deps	1	\$1,513.24	\$923.08	61%	\$590.16	\$623.97
Retirees	3+ Deps	2	\$2,029.29	\$1,237.87	61% (6.0% + or -)	\$791.42	\$837.33 (6.0% + or -) 6.0%
	Monthly Funding		\$137,336	\$83,775	61%	\$53,561	\$56,797
Base PPO	EE	143	\$393.23	\$0.00	0%	\$393.23	\$408.43
	1 Dep	44	\$439.09	\$109.77	25%	\$329.32	\$343.67
	2 Deps	37	\$878.18	\$219.55	25%	\$658.63	\$687.35
	3+ Deps	33	\$1,317.27	\$329.32	25% (4.2% + or -)	\$987.95	\$1,031.02 (4.4% + or -) 4.2%
	Monthly Funding		\$151,514	\$23,821	16%	\$127,694	\$132,983
Base PPO	Retiree	4	\$712.53	\$434.64	61%	\$277.89	\$320.83
	Ret Medicare	16	\$384.06	\$234.28	61%	\$149.78	\$156.79
	1 Dependent	2	\$838.48	\$511.47	61%	\$327.01	\$355.41
	Dep Medicare	8	\$455.42	\$277.81	61%	\$177.61	\$174.91
	2 Deps	2	\$1,277.58	\$779.32	61%	\$498.26	\$534.12
Retirees	3+ Deps	1	\$1,716.67	\$1,047.17	61% (6.0% + or -)	\$669.50	\$712.83 (6.0% + or -) 6.0%
	Monthly Funding		\$18,587	\$11,338	61%	\$7,249	\$7,683
HMO Blue Care 5	EE	49	\$382.84	\$0.00	0%	\$382.84	\$388.21
	1 Dep	9	\$430.37	\$107.59	25%	\$322.78	\$329.45
	2 Deps	10	\$860.74	\$215.19	25%	\$645.55	\$658.90
	3+ Deps	19	\$1,291.11	\$322.78	25% (1.8% + or -)	\$968.33	\$988.35 (2.1% + or -) 1.8%
	Monthly Funding		\$55,771	\$9,253	17%	\$46,518	\$47,355
HMO Blue Care 5	Retiree	4	\$727.03	\$443.49	61%	\$283.54	\$318.50
	1 Dependent	2	\$860.06	\$524.64	61%	\$335.42	\$354.14
	2 Deps	-	\$1,290.43	\$787.16	61%	\$503.27	\$525.46
	3+ Deps	1	\$1,720.80	\$1,049.69	61% (8.2% + or -)	\$671.11	\$696.78 (8.2% + or -) 8.2%
	Monthly Funding		\$6,349	\$3,873	61%	\$2,476	\$2,679
Total Monthly Funding			\$522,135	\$175,858	34% (5.0% + or -)	\$346,277	\$360,796 (6.5% + or -) 4.2%
Total Annual Funding			\$6,265,618	\$2,110,293	34.2% (4.98% + or -)	\$4,155,325	\$4,329,547 (6.54% + or -) 4.19%

TOWN OF PALM BEACH

Life & AD&D Market Analysis - Cost Summary

[illegible]

Please see the Voluntary Life Sheets for proposed voluntary rates; this summary is intended for Town of Palm Beach contributions

THIS SUMMARY IS FOR ILLUSTRATION PURPOSES ONLY.

Actual rates will be based on final underwriting/enrollment

This proposal is not to be construed as an exact or complete analysis of the policies nor as legal evidence of insurance.

THIS INFORMATION IS PROPRIETARY AND SHOULD NOT BE DISTRIBUTED.



TOWN OF PALM BEACH

MEMORANDUM

DATE: September 28, 2012

TO: Kennie Wells – Assistant Director of HR

FROM: Adis Pedraza - Assistant Purchasing Agent *AD 9/28/12*

SUBJECT: Final Ranking - RFP No. 2012-39 – “Group Life Insurance, ADD and Supplemental Life Coverage”

The Selection Committee met on September 28, 2012. All members of the committee listed below were present:

Cheryl Somers	Assistant Director of Finance
Eric Brown	Assistant Director of Public Works
Brodie Atwater	Assistant Fire-Rescue Chief
Kennie Wells	Assistant Director of HR
Danielle Olson	Director of HR (Non-Voting)
Darcel Walker	Consultant – Willis of Florida (Non-Voting)
Adis Pedraza	Assistant Purchasing Agent (Non-Voting)
John Cmar	Buyer (Non-Voting)

After thorough consideration of the seven (7) proposals, the Selection Committee arrived at a final ranking as follows:

- Minnesota Life
- Metropolitan Life Insurance Company (MetLife)
- Life Insurance Company of North America, LINA (Cigna)
- Florida Combined Life (Florida Blue)
- Kanawha Insurance Company (Humana)
- Hartford Life and Accident Insurance Company
- Symetra Life Insurance Company (Non-Responsive)

It is the recommendation of the Selection Committee to award a contract to Minnesota Life for Group Life Insurance, ADD Insurance and Supplemental Life Insurance.

cc: File: RFP No. 2012-39
John Randolph, Town Attorney
Selection Committee Members

TOWN OF PALM BEACH

Town Council Meeting on: October 9, 2012

Section of Agenda

Regular Agenda - New Business

Agenda Title

Proposed Pay Range Increase and Anniversary Date Pay Raises for Police Officers and Sergeants.

Presenter

Peter B. Elwell, Town Manager

Supporting Documents

- Memorandum dated October 2, 2012, from Peter B. Elwell, Town Manager

TOWN OF PALM BEACH

Information for Town Council Meeting on: October 9, 2012

To: Mayor and Town Council

From: Peter B. Elwell, Town Manager

Re: Increasing Police Officer and Sergeant Pay Ranges
and Resuming Anniversary Date Step Increases

Date: October 2, 2012

STAFF RECOMMENDATION

I recommend Town Council authorize staff to increase the top of the pay ranges for police officer and sergeant by 3% and to resume awarding step pay increases to police officers and sergeants on their anniversary dates. I further recommend that the effective date of these actions be October 1, 2012.

GENERAL INFORMATION

During review and adoption of the FY13 budget, Town Council authorized a 3% increase to the pay ranges for all non union positions.

On September 11, 2012, the police officers and sergeants voted to decertify the Fraternal Order of Police as their collective bargaining agent. The results of that election were made official by a vote of the Town's Mini-PERC on September 27, 2012. Therefore, police officer and sergeant are now non union positions.

I believe it is appropriate for the police officers and sergeants to receive a 3% increase to the top of their pay range for FY13 and a performance based pay increase on their anniversary of employment as a Palm Beach police officer (or the anniversary of their promotion to sergeant). In the case of the police officers and sergeants, the applicable performance based pay increase would be a 4% "step increase" to the base pay of any individual who meets or exceeds performance expectations and has not yet reached the top of their pay range. The maximum increase received by any one individual would be 4%. This will ensure that FY13 actions regarding Town employee compensation will be consistently applied to all non union employees. Police officers and sergeants were not included in the 3% range increase action in the FY13 budget because such an action was still subject to collective bargaining at the time the budget was proposed and adopted.

This action would not reverse any action taken during the collective bargaining process. All other aspects of police officer and sergeant compensation and all other policies addressed during last January's impasse hearing would remain as directed through the collective bargaining process.

FUNDING/FISCAL IMPACT

Funding for anniversary date step increases was included within the FY13 budget in anticipation of FY13 contract negotiations. No funding was included in the FY13 budget for the pay range increase for police officers and sergeants. The estimated FY13 cost of that action (which will enable employees at the top of their pay range to receive a 3% anniversary date pay increase that they otherwise would not have received) is \$34,500. Staff is not requesting appropriation of any additional funding at this time. We are confident that the cost of this action can be absorbed in the FY13 budget, offset by savings in other areas of Police Department operations.

PBE:

cc: Kirk W. Blouin, Director of Public Safety
Danielle Olson, Director of Human Resources
Jane Struder, Director of Finance

TOWN OF PALM BEACH

Town Council Meeting on: October 9, 2012

Section of Agenda

Regular Agenda - New Business

Agenda Title

Code Enforcement Board Recommendation for Foreclosure - 151 Chilean Avenue.

Presenter

John C. Randolph, Town Attorney

Supporting Documents

- Memorandum dated September 28, 2012, from John C. Randolph, Town Attorney
- Memorandum dated December 9, 2010, from John C. Randolph, Town Attorney
- Memorandum dated September 28, 2012 from Kirk W. Blouin, Director of Public Safety
- Exhibit A - Notice of Code Violation dated 11-27-06
- Exhibit B - Final Notice of Code Violation dated 2-14-07
- Exhibit C - Code Enforcement Board Order dated 4-25-07
- Exhibit D - Code Enforcement Board Order dated 5-17-07
- Exhibit E - Lien on Property filed 1-31-08
- Exhibit F - Notice of Code Violation dated 3-27-08
- Exhibit G - Code Enforcement Board Order dated 4-17-08
- Exhibit H - Code Enforcement Board Order dated 5-15-08
- Exhibit I - Lien on Property filed 7-31-08
- Exhibit J - Letter to Property Owner dated 1-3-11
- Exhibit K - Notice of Code Violation dated 3-1-11
- Exhibit L - Code Enforcement Board Order dated 3-17-11
- Exhibit M - Code Enforcement Board Order dated 4-21-11
- Exhibit N - Lien on Property filed 4-27-11
- Exhibit O - Notice of Foreclosure Hearing dated 6-18-12
- Exhibit P - Code Enforcement Board Order dated 7-19-12
- Exhibit Q - Code Enforcement Board Order dated 8-16-12
- Exhibit R - Code Enforcement Fines Due

TOWN OF PALM BEACH

Information for Town Council Meeting on: October 9, 2012

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: John C. Randolph, Town Attorney

Re: Code Enforcement Board Authorization for Foreclosure Action

Date: September 28, 2012

You have before you a memorandum which contains a staff recommendation that the Town Council proceed with foreclosure in regard to the code enforcement cases relating to 151 Chilean Avenue. In regard to that recommendation, the Mayor and Town Council should be fully advised in regard to the law as it relates to foreclosures against homestead property.

This issue was previously addressed in a memorandum from me dated December 9, 2010, copy attached. The specific law as it relates to foreclosing on code enforcement liens is set forth in Section 162.09 (3), which provides that:

"No lien created pursuant to the provisions of [this statute] may be foreclosed on real property which is a homestead under Section 4, Article X, of the State Constitution."

On this basis, in the event a property enjoys homestead status for protection against creditors pursuant to the Florida Constitution, the Town may not foreclose upon such property based on a code enforcement lien. It has been alleged that Mr. Gilbertson claims homestead status in Massachusetts and that, on that basis, he may not claim homestead for purposes of protection against creditors in the State of Florida. The fact that Mr. Gilbertson may claim homestead status in Massachusetts does not prevent him from claiming such an exemption in Florida. Florida courts liberally construe the homestead protection from forced sale and once a property has homestead protection, a court will be hesitant to find that an owner has abandoned the homestead. As one court explained,

[P]ermanent abandonment of the homestead as a bona fide home and place of permanent abode strips it of its homestead character. The intention of the claimant is a crucial factor. Thus, when the claimant of homestead moves out of the property with the intention never to return, that certainly would operate as abandonment as a matter of law, which in turn would strip the property of its homestead character. When the intention to abandon the property as homestead is not established, the mere fact that there has been a temporary absence from the premises does not necessarily compel the conclusion that the

claimant did, in fact, abandon the homestead formerly occupied by the claimant. . . . [S]o long as there is no evidence of an intent to permanently abandon the previously occupied premises . . . this d[oes] not operate as abandonment of the homestead.

In re Ehnle, 124 B.R. 361, 363-64 (Bankr. M.D. Fla. 1991). Further, Florida courts have held that in order to show abandonment, there must be a strong showing that the person did not intend to return to the residence. Thus, only when the owner has completely abandoned the property with the intent to never return will a court be willing to find abandonment of the homestead protection. The facts as I know them show that Mr. Gilbertson indeed does reside in this residence during the season in Palm Beach and it is for that reason that the Town, prior to this time, has not sought to foreclose on these code enforcement liens.

There is a second issue, however, which has caused staff to reconsider whether or not foreclosure would be appropriate in regard to these liens. That issue relates to the staff's understanding that Mr. Gilbertson leases two second floor apartments and a small cottage located on the property to third parties. That scenario brings to light another legal implication which stands for the proposition that where portions of a debtor's property used as the debtor's residence are leased to other occupants, the leased portions are not exempt from foreclosure and levy. This principle is established in the case of Menard vs University Radiation Oncology Associates, LLP, 976 So.2d 69 (Fla. 4th DCA 2008). Copy attached.¹

The Menard case, a case which came out of the Fourth District Court of Appeal, which is the appellate court which handles cases in Palm Beach County, held as follows:

"Only that part of a debtor's property used as his residence is exempt from levy and execution. That part leased to other occupants is not exempt. On remand the trial court shall determine whether under local law the entire property may be partitioned or in some other way divided legally (e.g., submitted to condominium ownership). If it cannot be so divided legally, then the entire parcel may be sold at public sale and only debtor's prorata share will be exempt."

This is quite an interesting development in the law and creates an issue for the Town Council in deciding whether to move forward with foreclosure on the 151 Chilean Avenue property. Prior holdings which came out of the Bankruptcy Court for the Southern District of Florida make this issue a bit murky. See, for example, the bankruptcy case of Makarewicz, 126 BR. 127 (Bankr. SD Fla. 1991). The issue in Makarewicz was whether a portion of the property owned by the debtor and claimed as homestead loses its exempt status because a part of the property consisting of two apartments, each containing one room, is rented to others. In that case, the parties agreed that the property was zoned for single family residence, and there was no possibility that the property could be rezoned to allow it to be subdivided to enable legal conveyance of that portion of the structure which is partially rented to third parties. The rental units were contained in the structure of which the debtor used two-thirds on the ground floor. The key to the analysis in Makarewicz was that the rental portion of the

¹ Also attached is Section 125 from Florida Jurisprudence 2d which addresses this same issue.

subject property was indivisible from the portion on which the debtor resided. Therefore, the Court concluded that the homestead protection extended to the entire property.

It appears on the basis of the Menard case, a more recent case controlling within this District, that the Town Council could move forward with foreclosure against the property with the understanding that the portion of the property occupied by Mr. Gilbertson is exempt, whereas that portion which is rented out is not. A trial on this foreclosure would obviously involve some complexities. In giving consideration to foreclosure, the Council should not only give consideration to the complexities of the law as it relates to this matter, but also to the practical aspect of the potential amount of recovery that might be achieved through this action.

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TOWN OF PALM BEACH

Information for Town Council Meeting on: December 14, 2010

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: John C. Randolph, Town Attorney

Re: Foreclosure of Code Enforcement Liens/Homestead

Date: December 9, 2010

STAFF RECOMMENDATION

The Mayor and Town Council, at the November Council meeting, asked that I look into the matter of foreclosures as they relate to certain properties in the Town which have been determined, by Code Enforcement staff, to be homesteaded and, therefore, protected from foreclosure. It was suggested by Town Council that where properties are rented or leased they are not entitled to the homestead exemption and, therefore, may not be protected from foreclosure. It was also suggested by the Mayor that if we cannot foreclose that we sue to get a judgment and upon getting a judgment for the amount of our lien to levy against the personal property of the property owner. The following is a report in regard to these matters.

GENERAL INFORMATION

In regard to the suggestion that a property owner is not entitled to a homestead exemption in the event the property is rented or leased, it is important that a distinction be made in regard to the homestead exemption as it relates to ad valorem taxation and the homestead exemption as it relates to protection against creditors. They are two entirely distinct propositions.

It is indeed correct that a property owner can lose his/her homestead exemption for purposes of ad valorem taxation by renting or leasing their property. There is a specific constitutional provision, legislation and a large body of case law in regard to this matter on which I would be happy to elaborate if requested.¹ This proposition relating to homestead status as it relates to ad valorem taxation, however, is to be distinguished from "homestead" as it relates to protection from creditors. Article X, Section 4 of the Florida Constitution provides as follows as it relates to homestead exemptions:

¹ See Florida Constitution, Article VII, Section 6, relating to homestead exemptions and Chapter 196, Florida Statutes

"(a) There shall be exempt from forced sale under process of any court, and no judgment, decree or execution shall be a lien thereon, . . . [in regard to] the following property owned by a natural person:

- (1) a homestead
- (2) personal property to the value of \$1,000.00"

For the purpose of protecting against creditors, homestead is established when there is actual intent to live permanently in a place, coupled with actual use and occupancy. Ultimately, all that is required is that the property owner reside on the property and in good faith make the same his or her permanent home. The homestead exemption is interpreted liberally to protect the homeowner. Courts have uniformly held that the purpose of Florida's homestead exemption law is to protect debtors and their dependents from destitution, even in the face of valid creditors' claims. The laws governing the exemption provisions have been liberally construed to achieve these purposes.

Some of the ways the homestead exemption has been interpreted liberally include the following:

"Establishing homestead status requires actual use and occupancy of the property. . . . However, continuous uninterrupted presence is not required. . . . Preparation of the property for immediate occupancy may be sufficient to establish actual use and occupancy for homestead purposes. . . . The Supreme Court of Florida has held that where the owner of property manifests the intention to occupy the property as a home by specific acts and does not otherwise act inconsistently with that intent, homestead character is established."

The State's code enforcement statute and the Town's code provide that:

"No lien created pursuant to the provisions of [this statute] may be foreclosed on real property which is a homestead under Section 4, Article X, of the State Constitution. The money judgment provisions of this section shall not apply to real property or personal property which is covered under Section 4(a), Article X of the State Constitution."

On the basis of all of the above, in the event a property enjoys homestead status for protection against creditors pursuant to the Florida Constitution, the Town may not foreclose upon such property based on a code enforcement lien. The same protection would exist as to personal property, at least to the extent of the first \$1,000.00 of value. Therefore, in the event the Town were to attempt to levy against personal property as suggested by the Mayor, this exemption would apply. On the basis of the above, if, upon review and examination, it is determined that a property is homestead, not for purposes of ad valorem taxation but for purposes of protection from creditors under the Florida Constitution, it would not serve the Town well to foreclose against such properties. In the event the Town were to foreclose on a lien and it were not to prevail on the basis that the property owner can satisfy the court that

his or her property enjoys homestead status, the prevailing party is entitled to recover all costs including reasonable attorney's fees that it incurs in the action. Therefore, if the Town were to proceed to foreclosure against a property which the Town has reasonable cause to believe is homestead, the Town would risk not only the attorneys' fees involved to itself in going forward, but the attorney's fees involved by the attorneys for the property owner.

Code enforcement staff has recommended foreclosure against properties which it knows are not homestead. It has not recommended foreclosure against properties it has determined to be homestead. Since it is ultimately a factual determination as to whether a property is entitled to the homestead exemption, I believe it would behoove the Town to carefully review all properties against which liens have been filed and do further examination to determine whether such properties are homesteaded for purposes of protection against creditors. In this review and analysis a determination should be made, not on the basis of whether a person has filed for homestead exemption for ad valorem tax purposes, but rather as to whether or not a property owner has the actual intent to live permanently in the place coupled with actual use and occupancy. I have offered to work with Code Enforcement staff to further study this matter.

If the Mayor or Town Council has any further questions in regard to this matter I would be happy to answer them.

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976 So.2d 69, 33 Fla. L. Weekly D505
(Cite as: 976 So.2d 69)

H

District Court of Appeal of Florida,
Fourth District
Jean MENARD, Appellant,
v.
UNIVERSITY RADIATION ONCOLOGY ASSO-
CIATES, LLP, Appellee

Nos. 4D06-4901, 4D07-576.
Feb. 13, 2008
Rehearing Denied April 2, 2008

Background: Medical clinic brought suit against former patient to recover amount remaining due for medical services. Patient conceded liability for \$27,000 under parties' agreement. The Circuit Court, Seventeenth Judicial Circuit, Broward County, Barry E. Goldstein, J., entered judgment for clinic in amount of \$77,000 following bench trial. Patient appealed.

Holdings: The District Court of Appeal, Farmer, J., held that:

- (1) court erred in permitting fact witness to contradict clinic's designated witness for pretrial discovery on matter of historical fact about terms of agreement;
- (2) only portion of patient's property used as residence was exempt from levy and execution; and
- (3) offer of judgment that did not state all non-monetary conditions could not support award of attorney fees.

Remanded

West Headnotes

[1] Pretrial Procedure 307A ⇌ 221

307A Pretrial Procedure

307AII Depositions and Discovery

307AII(C) Discovery Depositions

307AII(C)6 Failure to Appear or Testify;
Sanctions

307Ak221 k In General. Most Cited

Cases

In suit to recover unpaid charges for medical services, it was error to permit fact witness to give surprise testimony on matter of historical fact in manner that contradicted deposition testimony of person whom clinic had designated during pretrial discovery as person with knowledge of its payment agreement with patient; surprise change in testimony, which asserted for first time that patient had agreed to pay full amount of \$90,000 for services if he defaulted on agreement to pay \$40,000, was tantamount to permitting undisclosed adverse witness to testify.

[2] Health 198H ⇌ 947

198H Health

198HVII Compensation

198Hk947 k Amount. Most Cited Cases

Clinic was entitled to only reduced sum of \$40,000 for medical services pursuant to agreement with uninsured patient to accept that amount if patient elected course of treatment, rather than larger sum of \$90,000 that clinic allegedly would have charged insurer for same services, when patient defaulted on payments.

[3] Homestead 202 ⇌ 71

202 Homestead

202I Nature, Acquisition, and Extent

202I(D) Property Constituting Homestead

202k71 k Part of Tract, Lot, or Building.

Most Cited Cases

Only that part of debtor's property used as his residence would be exempt from levy and execution as within homestead exemption; part leased to other occupants was not exempt. West's F.S.A. Const. Art. 10, § 4(a)(1).

[4] Costs 102 ⇌ 194.50

102 Costs

102VIII Attorney Fees

102k194.50 k. Effect of Offer of Judgment or Pretrial Deposit or Tender: Most Cited Cases

Rejected offer of judgment that did not state all non-monetary conditions could not form basis for later award of attorney fees to offeror.

*70 Edward R. Holodak, Hollywood, for appellant.

Geoffrey D. Ittleman of the Law Offices of Geoffrey D. Ittleman, P.A., Hollywood, for appellee.

FARMER, J.

In this action to recover unpaid charges for health care services, both sides took the position that the amount owed was fixed by an agreement. The trial judge sided with the health care provider's view and entered judgment accordingly. Because of a significant error in the process we reverse.

Before litigation began, the clinic's attorney wrote the patient demanding payment of an unpaid balance of \$27,000. When payment was not forthcoming, the clinic filed suit claiming that \$77,000 was due, instead of the \$27,000 previously demanded. Answering the suit, the patient conceded liability for \$27,000.

Later both sides filed motions for summary judgment. In response to the clinic's motion, the patient sought a deposition of the person at the clinic with the "most knowledge" as to the clinic's claim. The clinic designated Molina as the person with the most knowledge. At the deposition Molina testified that it was among her duties to make payment plans with patients and that she had done so with this patient.

She explained that the amount billed to an insurance payor for the planned services would have been \$90,000, but the patient's health insurance did not cover the services. They agreed that the amount that patient would pay from his own funds for the same services was \$40,000 "no matter what." They also agreed on a schedule for payments as treatment progressed. As the services progressed the patient paid \$13,000 but failed to pay the balance.

In its summary judgment papers, the clinic identified its witness Molina as the person who made the agreement with patient on behalf of the clinic. The clinic argued, however, that the clinic notified the patient's on his final visit that, because of his failure to pay the balance, he now owed \$77,000 instead of \$27,000 as agreed. The clinic argued that the patient's motion for summary judgment should be denied because the patient had been informed that he owed the larger sum.

At the summary judgment hearing, both sides relied on Molina's deposition testimony, the clinic filing no affidavits. Patient filed an affidavit to support his motion. Patient swore that on three occasions before suit was filed the clinic had demanded the sum of \$27,000 and had never mentioned him owing the larger sum. He swore the first time he had ever been told by the clinic that they were claiming \$77,000 was with the filing of the suit. He also relied on the presuit letter demanding payment of \$27,000 made by clinic's attorney. He argued that the deposition testimony of Molina-the clinic's person with the most knowledge-was that he owed only \$27,000 as agreed.

He also cited the clinic's response to his motion for summary judgment. That response openly acknowledges that the clinic did not even create its "policy" demanding the full insurance amount when a patient fails to pay the agreed charge until after *71 this patient had already failed to make payment, thereby tacitly admitting that the larger sum was never actually agreed by the parties at the beginning.^{FN1} He conceded that the clinic was entitled to a final judgment for \$27,000.

FN1. The papers stated that at the final meeting between the parties in regard to the default in payment:

"[Molina] communicated to [patient] that if he did not pay the balance due and owing in accordance with the Reduced Rate Offer, that [clinic] would deem that [patient] rejected such Reduced Rate Of-

fer and, thus, demand that [patient] pay the full, non-discounted amount due and owing, all in accordance with the office policy that [clinic] WAS FORCED TO CREATE to deal with the fact that [patient] was the ONLY patient of [clinic] that attempted to avoid making payments . . ." [e s.]

Patient's argument to the trial judge focused on the emphasized part of the above quoted passage to assert that this policy of demanding the full insurance amount was decided only after patient had stopped making periodic payments

[1] The trial court denied summary judgment, and the case proceeded to trial. At trial the clinic produced-for the first time-one of its doctors to testify as to the making of the agreement. Patient immediately objected that the clinic should not be permitted to disavow either its designation of Molina as the witness having the most knowledge, or to now adduce changed testimony from that given by Molina. The clinic argued that the doctor was listed in the pretrial list of witnesses. The trial judge overruled the objection and permitted the testimony.

The doctor testified that he had direct knowledge of the agreement and that the parties had agreed at the very beginning before services were begun. He asserted that the patient had agreed to pay the full insurance amount if he failed to pay the lower charge. Ultimately the trial judge entered a final judgment holding the patient liable for the full \$77,000 claimed with interest. Patient appeals.

The patient argues that this surprise change in testimony was contrary to the position that clinic had taken since the case was filed. At no time before trial, patient argues, did the clinic ever suggest the parties had actually agreed before services began that he would owe the full amount charged to an insurance payor if he failed to pay. He pointed out that Molina's testimony at the deposition was

clear that the agreement was for a maximum of \$40,000. Only after he had defaulted did the clinic increase its demand to the larger sum. Because the larger sum was first raised only then, it is manifest that it was not part of the original understanding and agreement.

The patient contends that the surprise change in testimony by the clinic should be treated no differently than courts treat surprise changes in expert witness testimony. He rests his case on our decisions in *Department of Health and Rehabilitative Services v. J.B.*, 675 So.2d 241 (Fla. 4th DCA 1996), *Grau v. Branham*, 626 So.2d 1059 (Fla. 4th DCA 1993), and *Office Depot, Inc. v. Miller*, 584 So.2d 587 (Fla. 4th DCA 1991). *J.B.*, *Grau* and *Office Depot* all stand for the proposition that it is an abuse of discretion to allow a party at trial to change, in this manner, the substance of testimony given in pretrial discovery.

In *J.B.* the plaintiff offered Dr. Burke as a witness on economic issues. Defendant took a pretrial deposition in which he specifically asked the witness if he was going to testify at trial about "life care plans." He responded that he had "received no instruction on that." A few days before trial, defendant moved to exclude any testimony by Dr. Burke as to life care plans, *72 but the trial court allowed him to do so if plaintiff furnished defense counsel with "the information" by the end of that day. Plaintiff did not furnish the information until just before trial began, but the court permitted the witness to testify anyway, allowing defendant to take an "updated" deposition one evening during trial. In holding that the court had abused its discretion, we relied on *Binger v. King Pest Control*, 401 So.2d 1310 (Fla.1981), in which the supreme court had recognized the authority of trial judges to exclude testimony on account of violations of pretrial orders. We explained:

"Although *Binger* dealt with the failure to disclose a witness, its principles have been applied where the presentation of a changed opinion is tantamount to permitting an undisclosed adverse

witness to testify. Applying *Binger's* logic to the facts in this appeal, we find that the 'playing field was not level' and there was, in fact, surprise resulting in prejudice to HRS. Although the court afforded HRS the opportunity to depose one of the witnesses after the first day of the trial, HRS had no opportunity to obtain information or expert opinion to rebut the testimony of the witness and thereby cure the prejudice. The permitting of such testimony caused a disruption of the orderly and efficient trial of the case." [e.s., c.o.]

675 So.2d at 244. In short, allowing parties at trial to substantially change the essential import of pretrial testimony of any kind without prior disclosure in discovery slants the field of justice to give unfair advantage to the party making such a change.

In *Grau* the issue also involved new and different testimony by expert witnesses, which the trial judge there thought justifiable because "update" depositions were permitted during trial. Condemning this as "ambush tactics" prejudicing the opposing party, Judge Warner wrote:

"While the trial court does have broad discretion in sorting through witness disclosure and discovery problems, there are limits, and we think one has been surpassed in this case. The trial court not only allowed the plaintiff to disobey its clear pretrial orders, but it appeared more concerned with the prejudice to the plaintiff in disallowing the testimony of these witnesses, than with the prejudice to the defendant in striking their testimony regarding the trial examinations..." [c.o.]

626 So.2d at 1060. She further explained:
"Once the trial starts the lawyers are engaged in the unfolding of the evidence they have already collected. That is why there are discovery cutoffs. All the discovery rules and the extensive efforts of parties to discover the other party's case would be for naught if one side were able to wait until after the trial started to establish key pieces of evidence such as what occurred in this case..." [e.s., c.o.]

626 So.2d at 1061. She elaborated that nothing in *Binger* permits this kind of litigation tactic:

Binger certainly does not require the trial court to admit this testimony. *Binger* dealt with the failure to disclose a witness, although its teachings have been applied where the presentation of a changed opinion is tantamount to permitting an undisclosed adverse witness to testify ... [e.s., c.o.]

In closing, she made clear:

Certainly, if prejudice can be cured efficiently, then it should. But the plaintiff takes his own risk in adopting an ambush strategy and should not profit from his own wrongdoing ... The wrongs of the attorney should not harm the innocent defendant who in good faith engaged in discovery and conducted the trial by the rules. [e.s., c.o.]

626 So.2d at 1062. Again, we held the changes in pretrial testimony were functionally indistinguishable from failing to disclose adverse witnesses.

In *Office Depot*, which also involved a change of testimony by an expert witness at trial, we said:

"the spirit and purpose of Rule 1.360(b) requires the disclosure of a substantial reversal of opinion such as occurred here, if a party intends to offer that changed opinion at trial. Parties who fail to make such disclosure do so at their peril, depending on the circumstances of the particular case. In this case, allowing the presentation of the changed opinion was tantamount to permitting an undisclosed adverse witness to testify as in *Binger*." [e.s.]

584 So.2d at 590-91. In affirming the trial judge's exclusion of the changed testimony, Judge Anstead closed the opinion with the following warning:

"The trial court's action here sends out a strong message to those who do not adhere to the code of fair play advanced by *Binger*. Serious violations of the pretrial disclosure rules may result in

the exclusion of important evidence, and may, in extreme circumstances, lead to the grant of a new trial " [e.s.]

584 So.2d at 591. Our warning, issued more than 15 years ago, has never been withdrawn.

Obviously the testimony permitted in this case does not involve a change in an expert's opinion. But in some respects, it is even more significant because it involves historical fact: who said what; what did the parties agree. It is conceivable that, given new information, an expert may honestly change an opinion. But historical fact is not-or should not be-mutable in that way. And while the memories of witnesses may fade or simply be indistinct on a given subject or event, the nature of the testimony in this case is not of that kind.

Here the partnership was allowed to designate for itself in pretrial discovery the person acting on its behalf with regard to this patient's agreement. At no time before trial did the clinic ever suggest that Molina had been designated in error through an honest mistake. Indeed, Molina clearly testified at her deposition that she was in fact the person who concluded the agreement on behalf of the clinic. And she repeated that testimony at trial. In pretrial papers, the clinic continued to proceed on the basis of Molina's testimony, arguing instead that it should recover the undiscounted sum because it had later informed its patient of that change.^{FN2}

FN2. Of course, it is beyond legal dispute that in law a party to an agreement will not be heard to make unilateral, prejudicial changes in agreements previously made.

And while the opponent of expert witness opinion testimony might theoretically be able to counter with a newly obtained expert opinion of its own, that is hardly true of testimony as to historical fact unequivocally established under oath in pretrial discovery. When a party in litigation takes the position under oath by its own, competent witness that a certain historical fact directly affecting the claim in

suit is true, we are simply unable to imagine how an opposing party relying in its trial preparations on that testimony of historical fact could possibly counter a surprising change in it at trial. The prejudice to the patient is both serious and undeniable.

The clinic's only real response is that it had disclosed its doctor as a witness in the list of witnesses attached to the pretrial stipulation. We note, however, that in addition^{*74} to Molina the clinic's witness list included the names of three doctors but did not designate the actual subject of the testimony expected from any of the doctors. Under the circumstances, it would have been a reasonable inference that the named medical personnel, the physician witnesses, would testify about the medical services performed by the clinic, should that become an issue at trial in proving up the claim.

In *Office Depot*, we made clear that "the spirit and purpose of rule 1.360(b) requires the disclosure of a substantial reversal of opinion . . . if a party intends to offer that changed opinion at trial." 584 So.2d at 590. We see no reason why the requirement of pretrial disclosure for a change in testimony should be any different for historical fact witnesses. Yet nothing in the witness list even hinted at a change as to the testimony concerning the making of the agreement before services began.

The trial tactics of the clinic should not be tolerated.^{FN3} The clinic's surprising change in testimony was "tantamount to permitting an undisclosed adverse witness to testify as in *Binger*." 584 So.2d at 591. The trial judge's acceptance of this change improperly tilted the field of justice in favor of the clinic. 675 So.2d at 244. The orderly use of discovery by the patient to discover the other party's case came to nothing by allowing the clinic to wait until after trial started to change the key piece of evidence as to the making of the agreement in this case. 626 So.2d at 1061. Prejudice is palpable. Discretion was abused.

FN3. We limit our holding to the facts and circumstances of this case. In particular we

stress that our decision would not necessarily apply, for example, to a bona fide change by a fact witness as to past memory—perhaps having one's memory honestly refreshed—or to a real gap in memory later filled by spontaneous recollection, or the like. In this case, where the clinic itself identified Molina as the partnership witness with the significant knowledge of the making of the agreement, none of these apply. Under the circumstances here, our holding is in the nature of an estoppel, which in fact is the real principle underlying the holdings in *J.B. Grau and Office Depot*

[2] Ordinarily a new trial might be indicated. In this instance, however, the admissible evidence of the clinic's own testimony demonstrably made the patient's motion for summary judgment incontestable. The clinic is entitled to recover only the reduced sum of \$27,000 to which it had agreed,^{FN4} together with interest and costs. On remand, the trial judge will amend the judgment accordingly.

FN4. Because the lower sum of \$40,000 for the same services was reached in arms length negotiation by competent parties, each with a strong contrary interest as to the amount to be charged, generally it would seem that the sum they agreed upon would be deemed in law as presumptively a fair and reasonable sum for the health care services in question. Yet the record does not divulge any justification for the clinic to charge an insurance payor more than this presumptively reasonable sum it would charge a patient without insurance for the same services. We do not wish to be understood here as expressing an opinion on the propriety of such a charge.

Two other issues remain. First, we address the trial court's determination that the homestead exemption is not available under the facts of this case. In *First Leasing and Funding of Florida, Inc. v.*

Fiedler, 591 So.2d 1152 (Fla. 2d DCA 1992), a creditor sought to levy execution on a single-level triplex owned by the judgment debtor, consisting of debtor's residence and two other units under lease to different occupants. The trial court held that the entire triplex was covered by the homestead exemption, and the creditor appealed. The Second District noted the text of the current constitutional provision:

*75 "There shall be exempt from forced sale under process of any court ... a homestead ... if located within a municipality, to the extent of one-half acre of contiguous land, upon which the exemption shall be limited to the residence of the owner or the owner's family..."

Art. X, § 4(a)(1), Fla. Const. (1968). This differed from the text under the former Constitution of 1885 which provided that the exemption covered the "residence and business house of the owner." [e.s.] 591 So.2d at 1153. The court noted that in *Smith v. Guckenheimer*, 42 Fla. 1, 27 So. 900 (1900), the supreme court held that the exemption of a homestead in an incorporated city does not extend to improvements other than the residence or business house of the owner, nor to the land on which they are situated, though such improvements be inseparably attached to or form parts of an indivisible building, which constitutes the residence and business house of the owner. 591 So.2d at 1153. The court also relied on Bankruptcy Court decisions in Florida applying the exemption only to the part occupied by the debtor but denying it to parts used to produce income. See e.g. *In re Radtke*, 344 B.R. 690, 693 (Bankry.S.D.Fla.2006) (debtors who rented out portion of property as sites for mobile homes and recreational vehicles were not entitled to Florida homestead exemption for the entire 2.3 acre tract on which their home was located); *In re Nofsinger*, 221 B.R. 1018 (Bankry.S.D.Fla.1998) (portion used as rental not exempt); *In re Aliotta*, 68 B.R. 281 (Bankry.M.D.Fla.1986) (where debtor occupied one unit of a fourplex, the homestead exemption should not extend to the entire property).

976 So.2d 69, 33 Fla. L. Weekly D505

(Cite as: 976 So.2d 69)

[3] We follow these holdings. Only that part of debtor's property used as his residence is exempt from levy and execution. That part leased to other occupants is not exempt. On remand the trial court shall determine whether under local law the entire property may be partitioned or in some other way divided legally (e.g., submitted to condominium ownership). If it cannot be so divided legally, then the entire parcel may be sold at public sale and only debtor's pro rata share will be exempt.

[4] Second, we also affirm the denial of fees under the offer of settlement. *Rivera v. Publix Super Markets, Inc.*, 929 So.2d 1184 (Fla. 4th DCA 2006) (holding that offer of judgment must state all non-monetary conditions). This case is remanded for judgment accordingly.

WARNER and GROSS, JJ., concur

Fla App. 4 Dist., 2008.

Menard v University Radiation Oncology Associates, LLP

976 So.2d 69, 33 Fla. L. Weekly D505

END OF DOCUMENT

preserved where a family is temporarily removed from the homestead but the homestead remains the permanent abode to which the family intends to return.⁵

♦ **Caution:** Where a debtor declares another property as homestead, the prior homestead property is abandoned.⁶

§ 125 Renting of homestead property

Research References

West's Key Number Digest, Homestead ☞163, 165, 168

Only that part of a debtor's property used as his or her residence is exempt from levy and execution under the Florida constitutional homestead exemption, and any part leased to other occupants is not exempt.¹ Thus, a debtor who resides in part of a duplex and rents the other part to a third party may only claim the portion of the duplex used as his or her homestead as exempt; the rented portion is not exempt and is subject to claims by the debtor's creditors.² However, a temporary renting of homestead premises may not constitute an abandonment of the homestead right, at least where the intent to return is present.³

♦ **Observation:** Some Florida bankruptcy courts have held that, although a debtor does not necessarily abandon his or her homestead simply because he or she may rent or lease portions of it, the debtor's property should be subject to a divisibility test. Under such a test, the criteria for divisibility should include whether a unit or parcel is susceptible to division by perpendicular and/or horizontal

⁵*Novoa v. Amerisource Corp.*, 860 So. 2d 506 (Fla. Dist. Ct. App. 3d Dist. 2003).

As to whether a temporary absence from homestead premises constitutes abandonment, generally, see § 121.

⁶*In re Beebe*, 224 B.R. 817 (Bankr. N.D. Fla. 1998) (applying Florida law).

[Section 125]

¹*Menard v. University Radia-*

tion Oncology Associates, LLP, 976 So. 2d 69 (Fla. Dist. Ct. App. 4th Dist. 2008).

²*In re Bornstein*, 335 B.R. 462 (Bankr. M.D. Fla. 2005) (applying Florida law).

³*Collins v. Collins*, 150 Fla. 374, 7 So. 2d 443 (1942).

As to intention as the determining factor in abandonment of homestead, see § 118.

lines, but also where conveyable as an interest. Other courts have held that partially rented indication of the property is the rented portion of

§ 126 Conveyance

Research References

West's Key Number Dig

Where an owner's interest terminates, the owner ceases.¹ Thus, a homestead claimant's conveyance

♦ **Illustration:** Where a debtor conveys property lost its homestead status if not survived by a conveyance where a debtor conveys in property to a creditor in any legal or equitable interest, the transfer is not make a valid transfer was set aside in a divorce decree directed and that the sale of the debtor-husband as "abandonment" of which he could still proceed.⁵

A debtor's intent to

⁴*In re Makarewicz*, 620 (Bankr. S.D. Fla. 1998).

⁵*In re Pietruni*, 281 (Bankr. M.D. Fla. 1997) (in a municipality); *In re V*, 152 B.R. 345 (Bankr. M.D. (rural property)).

[Section 126]

¹*Anemaet v. Mar* Co., 114 So. 2d 23 (Fla. App. 2d Dist. 1959).

²*Sackheim v. Mari*

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ermanent abode

her property
abandoned.⁵

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s, a debtor who
other part to a
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sociates, LLP, 976
Dist. Ct. App. 4th

stein, 335 B.R. 462
a. 2005) (applying

Collins, 150 Fla.
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ntion as the deter-
a abandonment of
118.

lines, but also whether such unit or parcel is lawfully conveyable as an independent parcel under existing law.⁴ Other courts have limited the homestead exemption of partially rented indivisible homestead property to the portion of the property occupied by the debtors, and excluded the rented portion of the property from exemption.⁵

§ 126 Conveyance of homestead property

Research References

West's Key Number Digest, Homestead ¶167

Where an owner's estate or interest in homestead land terminates, the owner's homestead exemption necessarily ceases.¹ Thus, a homestead right may be extinguished by a claimant's conveyance of the premises.²

♦ **Illustration:** Upon devise to a trust, a testator's property lost its homestead status where the testator was not survived by a spouse or a minor child.³ Likewise, where a debtor conveyed his undivided one-half interest in property to a creditor, he had no further intent to hold any legal or equitable interest in the property and could not make a valid homestead exemption claim after the transfer was set aside.⁴ On the other hand, a prepetition divorce decree directing that homestead property be sold and that the sales proceeds be distributed between a debtor-husband and his nondebtor-wife did not result in "abandonment" of the debtor's homestead exemption, which he could still claim for his interest in the sales proceeds.⁵

A debtor's intent to sell in the future, without more, does

⁴In re Makarewicz, 130 B.R. 620 (Bankr. S.D. Fla. 1991).

⁵In re Pietrunti, 207 B.R. 18 (Bankr. M.D. Fla. 1997) (property in a municipality); In re Wierschem, 152 B.R. 345 (Bankr. M.D. Fla. 1993) (rural property).

[Section 126]

¹Anemaet v. Martin-Senour Co., 114 So. 2d 23 (Fla. Dist. Ct. App. 2d Dist. 1959).

²Sackheim v. Marine Bank &

Trust Co., 341 So. 2d 247 (Fla. Dist. Ct. App. 2d Dist. 1976).

³Elmowitz v. Estate of Zimmerman, 647 So. 2d 1064, 51 A.L.R.5th 951 (Fla. Dist. Ct. App. 3d Dist. 1994).

⁴In re Levy, 185 B.R. 378 (Bankr. S.D. Fla. 1995) (applying Florida law).

⁵In re Ballato, 318 B.R. 205 (Bankr. M.D. Fla. 2004) (applying Florida law).

As to homestead exemption

TOWN OF PALM BEACH

Information for Town Council Meeting on: October 9, 2012

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: Kirk W. Blouin, Public Safety Director

Re: Code Enforcement Board Authorization for Foreclosure Action

Date: September 28, 2012

STAFF RECOMMENDATION

Staff recommends that the Town Council proceed with foreclosure action in regard to the following Code Enforcement Board cases:

- Case No. 07-2089, 151 Chilean Ave., Erik Gilbertson
- Case No. 08-2478, 151 Chilean Ave., E. Nordin Gilbertson
- Case No. CE-11-105, 151 Chilean Ave., E. Nordin Gilbertson

CODE ENFORCEMENT BOARD RECOMMENDATION

The Code Enforcement Board, at its August 16, 2012 hearing, recommended the Town Council proceed with a foreclosure action.

GENERAL INFORMATION

A Notice of Code Violation dated November 27, 2006 was sent to the property owner citing violations of Chapter 42, Section 42-86 and 42-87 of the Town of Palm Beach Code of Ordinances, exterior painted surfaces chipped and peeling, damaged wood siding and fascia boards, miscellaneous unusable items and building materials in the yard and three inoperable vehicles parked on the property and covered with tarps. [Exhibit A]

A Final Notice of Code Violation dated February 14, 2007 was sent to the property owner citing violations of Chapter 42, Section 42-86 and 42-87 of the Town of Palm Beach Code of Ordinances, exterior painted surfaces chipped and peeling, damaged wood siding and fascia boards, miscellaneous unusable items and building materials in the yard and three inoperable vehicles parked on the property and covered with tarps. [Exhibit B]

At the April 25, 2007 Code Enforcement Board Hearing, the Board found the property owner in non-compliance and granted them until May 14, 2007 to bring the property into compliance. [Exhibit C]

The property was not brought into compliance and on May 17, 2007, the Board ordered the property owner to pay a fine in the amount of \$250.00 a day, beginning on May 15, 2007, the day after the Code Enforcement Board Order requiring compliance and continuing until compliance was achieved. [Exhibit D]

A lien was filed against the property on January 31, 2008 and recorded with the Palm Beach County Clerk of Court in Official Records Book 22414, Page 1238 [Exhibit E]

A Notice of Code Violation dated March 27, 2008 was sent to the property owner citing a violation of Chapter 134, Section 134-889 of the Town of Palm Beach Code of Ordinances, a non-permitted brick paver parking area installed and being utilized by adjacent commercial building tenants who were paying to park on the property [Exhibit F]

At the April 17, 2008 Code Enforcement Board Hearing, the Board found the property owner in non-compliance and granted them until May 1, 2008 to achieve compliance by removing the brick paver parking area and replacing it with sod/grass and cease renting the parking spaces [Exhibit G]

The property was not brought into compliance and on May 15, 2008, the Board ordered the property owner to pay a fine in the amount of \$250.00 a day, beginning on May 2, 2008, the day after the Code Enforcement Board order requiring compliance and continuing until compliance was achieved. [Exhibit H]

Another lien was filed against the property on July 31, 2008 and recorded with the Palm Beach County Clerk of Court in Official Records Book 22787, Page 0498 [Exhibit I]

On January 3, 2011 the Town of Palm Beach Finance Department sent the property owner a certified letter informing him there were \$590,400 in unpaid fines and fees due and requesting payment by January 31, 2011. [Exhibit J]

A Notice of Code Violation dated March 1, 2011 was sent to the property owner citing a violation of Chapter 18, Section 18-241 of the Town of Palm Beach Code of Ordinances, for the erection of a fence on the property without the required building permit. [Exhibit K]

At the March 17, 2011 Code Enforcement Board Hearing, the Board found the property owner in non-compliance and gave him until March 31, 2011 to bring the property into compliance by obtaining the required building permit or removing the fence. [Exhibit L]

The property was not brought into compliance and on April 21, 2011, the Board ordered the property owner to pay a fine in the amount of \$100.00 a day, beginning on April 1, 2011, the day after the Code Enforcement Board order requiring compliance and continuing until compliance was achieved. [Exhibit M]

On May 2, 2011, a letter was received from the property owner advising he had removed the fence and requesting an inspection of the property. The inspection was completed on May 3, 2012 and the daily fine stopped running as of May 2, 2012. This fine ran for a total of 32 days at \$100.00 a day and totals \$3200 in addition to the unpaid Code Enforcement Board administrative costs of \$150.00.

A third lien was filed against the property on April 27, 2011 and recorded with the Palm Beach County Clerk of Court in Official Records Book 24492, Page 1932 [Exhibit N]

On June 18, 2012 a Notice of Foreclosure Hearing was mailed via certified/regular mail to the property owner and was posted on the property, advising a foreclosure hearing would be held before the Code Enforcement Board on July 19, 2012 at 2:00 p.m. [Exhibit O]

At the July 19, 2012 Code Enforcement Board Hearing, the Board postponed the case to the August 16, 2012 hearing due to an issue of service on the property owner. There was a change in the Florida State Statute which became effective on July 1, 2012 which mandates that property owners have 30 days to sign for certified mail prior to the property being able to be legally posted as an alternate means of service. [Exhibit P]

At the August 16, 2012 Code Enforcement Board hearing, the Board recommended the Town Council proceed with a foreclosure action against the property as prescribed in Section 2-435 (b) of the Code. [Exhibit Q]

As of September 28, 2012, the total amount due to the Town is \$886,900 and continues to accrue at \$500.00 a day. [Exhibit R]

It is questionable as to whether this property is the homesteaded property of the owner subject to exemption from foreclosure under Florida law. That matter continues to be researched and we ask that foreclosure be authorized subject to all research being completed. The property owner rents to three other individuals who reside on the property. The property owner appears to have a primary residence in Massachusetts.

TOWN ATTORNEY REVIEW

The agenda item was reviewed and approved by John C. Randolph for legal form and sufficiency.

Attachments

KWB/rh



TOWN OF PALM BEACH

Planning, Zoning & Building Department

EXHIBIT A

November 27, 2006

CERTIFIED MAIL
7003 0500 0002 1599 5376

Nordin and Charlotte Gilbertson
151 Chilean Avenue
Palm Beach, FL 33480

NOTICE OF CODE VIOLATION
At 151 Chilean Avenue, Palm Beach
Property Control Number: 60-43-43-23-05-008-0110

Dear Property Owner:

The recent inspection of your property has found Town Code of Ordinance violations relating to Chapter 42 Section 42-87 Environment which does not allow unsightly, unsafe or unsanitary conditions.

The inspection has found detached wood structure located in your northwest corner of your back yard not kept in good state of repair. Exterior wood siding of structure appears to be in dilapidated condition.

Please replace all damage and missing wood siding and restore structure to original permitted condition by **January 17, 2007. *Building Permit Required***

In addition, be advised that Town Ordinance Chapter 118, Section 118-50 does not allow recreational vehicles parked on any privately owned property for no longer than two days. Please do not park your recreational vehicle on your property as this has been a reoccurring violation and will no longer be acceptable and subject to repeat code violation fine.

Should compliance with Town Ordinances not be met within this time frame, you are hereby formally notified to **APPEAR** before the Code Enforcement Board on **January 18, 2007 at 2:00 p.m.** There will be a public hearing in the second floor Town Council Chambers at 360 So. County Road, Palm Beach.

Failure to appear may result in the Board proceeding in your absence. Should you be found in violation of the Town Code, the Code Enforcement Board has the power by law to levy fines up to Two Hundred Fifty (\$250.00) Dollars a day against you and your property for every day that any violation continues beyond the date set in order for compliance.

Should you desire, you have the right to obtain an attorney and have the opportunity to present witnesses, as well as, question any of the witnesses against you prior to the Board making a determination.

Please be prepared to present evidence substantiating the amount of time required to correct the alleged violation, should you be found in violation of the Town Code.

Please contact the assigned code compliance officer one week before the scheduled hearing to determine if your case is on the agenda.

An Administrative Fee of One Hundred Fifty (\$150.00) Dollars will be applied to you should your case be heard before the Board for hearing and staff cost.

Should you have any questions, please do not hesitate to contact me at 561-227-6425 after 1:00 p.m. or Robert Walton, Chief Code Compliance Officer at 227-6423.

Thank you in advance for your immediate attention in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Nick Gerry", written over a horizontal line.

Nick Gerry
Code Compliance Officer

NG/dam

c: Veronica B. Close, Director of Planning, Zoning & Building Department
Robert S. Walton, Chief Code Compliance Officer
pf, kr



TOWN OF PALM BEACH

Planning, Zoning & Building Department

February 14, 2007

EXHIBIT B

Certified Mail
7003 0500 0002 1599 6557

Capt. Erik Gilbertson
18 Old Schoolhouse Road
Harwichport, Mass 02646

FINAL NOTICE OF CODE VIOLATION

Subject: 151 Chilean Avenue, Palm Beach

Property Control Number: 50-43-43-23-05-008-0110

Dear Capt. Gilbertson:

I have received your recent letter dated February 8, 2007 explaining your delay in making repairs to your detached wood structure as per the Notice of Code Violation dated November 27, 2006.

An extension of time to make repairs to the structure was approved due to your immediate family member having a medical emergency, but such extension of time can no longer be approved and repairs to your property must be made as soon as possible.

Furthermore, my recent inspection of your property has found several additional code of ordinance violations relating to Chapter 42, Sections 42-86 and 42-87 Environment. Please review the violations below and act accordingly.

- Exterior painted surfaces of your home and detach building not kept in good repair. Painted surfaces appear to be stained, peeling and chipped and wood fascia boards and trim deteriorating throughout your home.

Please repaint all exterior surfaces of home, including doors, trim, fascia as needed to restore exterior painted surfaces to a neat and clean appearance and replace damage wood siding, boards as needed by **April 10, 2007**.

- Misc. outside discarded, unusable items and building materials, such as wood, bricks furniture, boxes located along your west side yard and near home.

Please remove all unusable, discarded materials and objects from your property or store inside the garage by **April 10, 2007**.

- Three inoperable vehicles parked on property, covered with tarps.

Please provide vehicle registrations to office and display license plate for all vehicles or obtain such registrations or remove vehicles from the property by **April 10, 2007**.

- Detached wood structure not kept in good repair. Exterior wood-lattice wall boards damaged.

Please replace all exterior wood lattice and boards to structure which appear damage and paint by **April 10, 2007**.

Should compliance with Town Ordinances not be met within this time frame, you are hereby formally notified to **APPEAR** before the Code Enforcement Board on **April 19, 2007 at 2:00 PM**. There will be a public hearing in the second floor Town Council Chambers at 360 So. County Road, Palm Beach.

Failure to appear may result in the Board proceeding in your absence. Should you be found in violation of the Town Code, the Code Enforcement Board has the power by law to levy fines up to Two Hundred Fifty (\$250.00) Dollars a day against you and your property for every day that any violation continues beyond the date set in order for compliance.

Should you desire, you have the right to obtain an attorney and have the opportunity to present witnesses, as well as, question any of the witnesses against you prior to the Board making a determination.

Please be prepared to present evidence substantiating the amount of time necessary to correct the alleged violation, should you be found in violation of the Town Code.

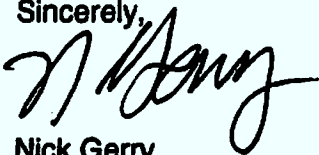
Please contact the assigned code compliance officer one week prior to the scheduled hearing date to verify your case is on the agenda.

An Administrative Fee of One Hundred Fifty (\$150.00) Dollars will be applied to you for the cost of the hearing and staff time, should your case proceed to the Code Enforcement Board.

Should you have any questions, please do not hesitate to contact me at 561-227-6425 after 1:00 p.m. or Robert Walton, Chief Code Compliance Officer at 227-6423.

Thank you in advance for your immediate attention in this matter.

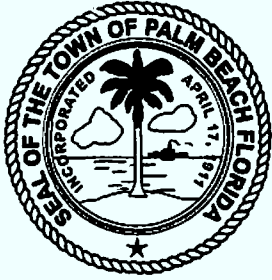
Sincerely,



Nick Gerry
Code Compliance Officer

NG/dam

c: Veronica B. Close, Director of Planning, Zoning & Building Department
Robert S. Walton, Chief Code Compliance Officer
Fred Hess, Sargent-Police Department
pf, kr



TOWN OF PALM BEACH POLICE DEPARTMENT

A NATIONAL AND STATE ACCREDITED LAW ENFORCEMENT AGENCY



EXHIBIT C

April 25, 2007

Captain Erik Gilbertson
151 Chilean Avenue
Palm Beach, FL 33480

CERTIFIED MAIL
7006 0810 0003 3906 5679

Re: **CASE #07-2089, 151 Chilean Avenue, Palm Beach**

VIOLATION of Chapter 42, Section 42-86 and 42-87 of the Town of Palm Beach Code of Ordinances, it shall be unlawful and constitute a nuisance for any owner of land within the Town to allow building materials, non operative boats, automobiles or other such items to accumulate and all exterior walls, roofs, doors and windows shall be reasonably free of cracks, painted and shall be kept in a sound condition and good repair.

The Code Enforcement Board has heard testimony at the Code Enforcement Board Hearing held the 19 day of April, 2007 and based on the evidence, the Code Enforcement Board enters the following FINDINGS OF FACT, CONCLUSIONS OF LAW, and ORDER.

FINDINGS OF FACT

VIOLATION of Chapter 42, Section 42-86 and 42-87 of the Town of Palm Beach Code of Ordinances does exist.

CONCLUSIONS OF LAW

VIOLATION of Chapter 42, Section 42-86 and 42-87 of the Town of Palm Beach Code of Ordinances does exist.

Captain Erik Gilbertson
April 19, 2007
Page 2

ORDER

It is the order of this Board regarding Case #07-2089 that the violator is found in non compliance of Town Ordinances, ordered to pay administrative fees in the amount of \$150.00 and is granted until May 14, 2007 to come into compliance.

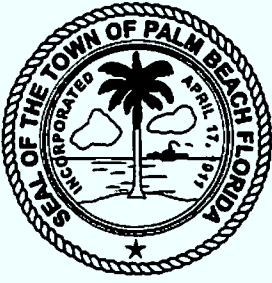
Should compliance with Town Ordinances not be obtained as proscribed by the Board, let this Order serve as notice that a fine may be considered and imposed by the Board at its next regularly scheduled hearing on May 17, 2007. Failure to pay the above ordered administrative fees within ten (10) days may result in a lien being filed against your property.

DONE AND ORDERED this 19th day of April, 2007.

A handwritten signature in black ink, appearing to read 'Timothy Hoffman', is written over a horizontal line.

Timothy Hoffman
Chairman Code Enforcement Board

CC: Captain Kirk Blouin
✓ Case File
Property File



TOWN OF PALM BEACH POLICE DEPARTMENT

A NATIONAL AND STATE ACCREDITED LAW ENFORCEMENT AGENCY



EXHIBIT D

May 17, 2007

Erik Gilbertson
151 Chilean Avenue
Palm Beach, FL 33480

CERTIFIED MAIL
7006-0810-0003-3906-9947

Re: **CASE #07-2089, 151 Chilean Avenue, Palm Beach**

VIOLATION of Chapter 42, Section 42-86 and 42-87 of the Town of Palm Beach Code of Ordinances, it shall be unlawful and constitute a nuisance for any owner of land within the Town to allow building materials, non operative boats, automobiles or other such items to accumulate and all exterior walls, roofs, doors and windows shall be reasonably free of cracks, painted and shall be kept in a sound condition and good repair.

The Code Enforcement Board has heard testimony at the Code Enforcement Board Hearing held the 17th day of May, 2007 and based on the evidence, the Code Enforcement Board enters the following FINDINGS OF FACT, CONCLUSIONS OF LAW, and ORDER.

FINDINGS OF FACT

VIOLATION of Chapter 42, Section 42-86 and 42-87, of the Town of Palm Beach Code of Ordinances does exist.

CONCLUSIONS OF LAW

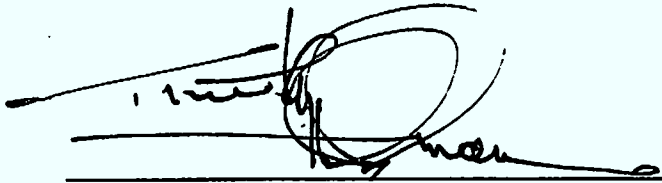
VIOLATION of Chapter 42, Section 42-86 and 42-87, of the Town of Palm Beach Code of Ordinances does exist.

Erik Gilbertson
May 17, 2007
Page 2

ORDER

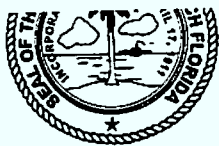
It is the order of this Board regarding Case #07-2089 that the violator was previously found in non compliance of Town Ordinances and is assessed a daily fine of \$250.00 beginning on May 15, 2007 and continuing until compliance is achieved.

DONE AND ORDERED this 17th day of May 2007.

A handwritten signature in black ink, appearing to read 'Timothy Hoffman', written over a horizontal line.

Timothy Hoffman
Chairman Code Enforcement Board

CC: Captain Kirk Blouin
Case File
Property File



TOWN OF PALM BEACH
POLICE DEPARTMENT

JOINT AGENCY



EXHIBIT E

May 17, 2007

CERTIFIED MAIL
7006 0810 0003 3906 9947

Erik Gilbertson
151 Chilean Ave.
Palm Beach, FL 33480

Legal Description:
50-43-43-23-05-008-0110
ROYAL PARK ADD LTS 11 TO 14 INC BLK 8

Re: Case # 07-2089, 151 Chilean Avenue, Palm Beach

VIOLATION of Chapter 42, Section 42-86 and 42-87 of the Town of Palm Beach Code of Ordinances, it shall be unlawful and constitute a nuisance for any owner of land within the Town to allow building materials, non-operative boats, automobiles or other such items to accumulate and all exterior walls, roofs, doors and windows shall be reasonably free of cracks, painted and shall be kept in a sound condition and good repair.

The Code Enforcement Board has heard testimony at the Code Enforcement Board Hearing held the 17th day of May, 2007 and based on the evidence, the Code Enforcement Board enters the following FINDINGS OF FACT, CONCLUSIONS OF LAW and ORDER.

FINDINGS OF FACT

VIOLATION of Chapter 42, Section 42-86 and 42-87, of the Town of Palm Beach Code of Ordinances does exist.

CONCLUSIONS OF LAW

VIOLATION of Chapter 42, Section 42-86 and 42-87, of the Town of Palm Beach Code of Ordinances does exist.

ORDER

It is the order of this Board regarding Case # 07-2089 that the violator was previously found in non-compliance of Town Ordinances and is assessed a daily fine of \$250.00 beginning on May 15, 2007 and continuing until compliance is achieved.

DONE AND ORDERED this 17th day of May, 2007

Timothy Hoffman
Chairman, Code Enforcement Board

CLERK'S CERTIFICATE

STATE OF FLORIDA)
COUNTY OF PALM BEACH) ss:
TOWN OF PALM BEACH)

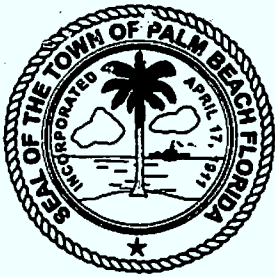
I, SUSAN A. EICHHORN, HEREBY CERTIFY THAT I am the duly qualified and acting Clerk of the Town of Palm Beach, Florida; that the above and foregoing is a true and correct copy of a Document the original of which is on file in the Office of the Town Clerk of the Town of Palm Beach, Florida.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed this official seal of said Town, this 17th day of May, A.D. 2007

TOWN SEAL

SUSAN A. EICHHORN
TOWN CLERK

FILE NUM 20080037736 OR BOOK/PAGE 22414/1238 DATE: 01/31/2008 16:20:10 Pg 1238: (1pg)
Sharon R. Beck, CLERK & COMPTROLLER



TOWN OF PALM BEACH POLICE DEPARTMENT

A NATIONAL AND STATE ACCREDITED LAW ENFORCEMENT AGENCY



EXHIBIT F

March 27, 2008

E. Nordin Gilbertson
151 Chilean Ave.
Palm Beach, FL 33480

CERTIFIED/REGULAR MAIL
7007 3020 0000 7498 9123

NOTICE OF CODE VIOLATION AND HEARING

151 Chilean Ave., Palm Beach

CAD # 08-0750100

Property Control Number: 50-43-43-23-05-008-0110

Dear Mr. Gilbertson,

Please be advised the recent inspection of your property has found a non-permitted brick paver parking area located on the southwest corner of your yard. Additionally, this parking area has been observed to be utilized by the adjacent commercial building tenants which is not allowed.

The Town of Palm Beach Code of Ordinances, Chapter 134, Section 134-889, does not allow any building or accessory building or any land in the R-B low density residential district to be used for any quasi-commercial or commercial use or purpose.

All parking from the adjacent commercial building tenants and customers on your property is to cease by **April 4, 2008**.

The existing brick paver parking area shall be removed and replaced with sod/grass or a building permit obtained and inspection scheduled by **April 14, 2008**.

Should compliance with the Town Ordinances not be met within this time frame, you are hereby notified there will be a public hearing before the Code Enforcement Board on **April 17, 2008 at 2:00 p.m.** in the second floor Town Council Chambers at Town Hall, 360 S. County Road, Palm Beach.

Should you decide not to be present, the hearing will be held in your absence. If you are found in violation of the Town Code, the Code Enforcement Board has the power by law to levy fines up to Two Hundred Fifty (\$250.00) Dollars a day against you and your

E. Nordin Gilbertson

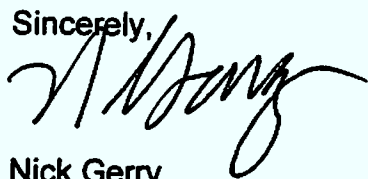
March 27, 2008

Page 2

property for every day any violation continues beyond the date set in the order for compliance. An administrative fee of One Hundred Fifty (\$150.00) Dollars for the cost of the hearing may be assessed to you should your case be heard.

If you have any questions, please do not hesitate to call me at (561) 227-6425 or Robert Walton, Lead Code Enforcement Officer at (561) 227-6423. Your immediate attention to this matter is appreciated.

Sincerely,



Nick Gerry
Code Enforcement Officer

cc: Code Enforcement File
Property File
Paul Castro, Zoning Administrator

U.S. Postal Service
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OFFICIAL USE

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Restricted Delivery Fee (Endorsement Required)	
Total Postage	

Sent To: **E. Nordin Gilbertson**
151 Chilean Ave.
Palm Beach, FL 33480

Street, Apt. No.,
or PO Box No.
City, State, ZIP

PS Form 3800, 1-00

2007 3020 0000 7498 9123

PAID 4.44

Postmark Here

PAID 4.44



TOWN OF PALM BEACH POLICE DEPARTMENT

A NATIONAL AND STATE ACCREDITED LAW ENFORCEMENT AGENCY



EXHIBIT G

April 17, 2008

E. Nordin Gilbertson
151 Chilean Ave.
Palm Beach, FL 33480

CERTIFIED MAIL
7007 3020 0000 7499 1805

Re: Case # 08-2478, 151 Chilean Ave., E. Nordin Gilbertson

Violation of Chapter 134, Section 134-889 of the Town of Palm Beach Code of Ordinances, commercial use of land in the R-B low density residential district.

The Code Enforcement Board heard testimony at the Code Enforcement Board Hearing held the 17th day of April, 2008 and based on the evidence, the Code Enforcement Board enters the following FINDINGS OF FACT, CONCLUSIONS OF LAW, and ORDER.

FINDINGS OF FACT

VIOLATION of Chapter 134, Section 134-889 of the Town of Palm Beach Code of Ordinances does exist.

CONCLUSIONS OF LAW

VIOLATION of Chapter 134, Section 134-889 of the Town of Palm Beach Code of Ordinances does exist.

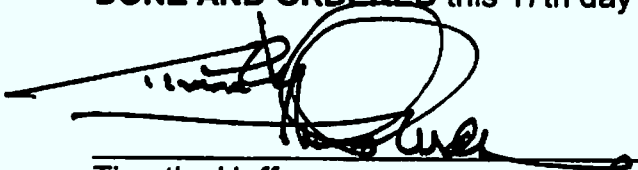
E. Nordin Gilbertson
April 17, 2008
Page 2

ORDER

It is the order of this Board regarding Case #08-2478 that the violator is found in non-compliance, assessed administrative costs of \$150.00 and given until May 1, 2008 to achieve compliance. Should compliance with Town Ordinances not be obtained as prescribed by the Board, let this Order serve as notice that a fine up to Two Hundred Fifty (\$250.00) Dollars a day may be considered and imposed by the Board at its next regularly scheduled hearing on May 15, 2008.

Failure to pay the above ordered administrative costs within ten (10) days may result in a lien being filed against your property.

DONE AND ORDERED this 17th day of April, 2008



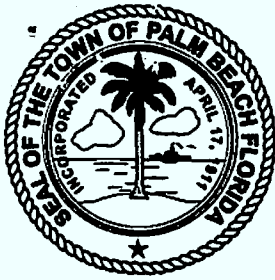
Timothy Hoffman
Chairman, Code Enforcement Board

cc: Case File
Property File

7007 3020 0000 7499 1805

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Postage	\$.41
Certified Fee	2.65
Return Receipt Fee (Endorsement Required)	2.15
Restricted Delivery Fee (Endorsement Required)	5.21
Total Postage /	E. Nordin Gilbertson
Sent to	151 Chilean Ave.
Street, Apt. No., or PO Box No.	Palm Beach, FL 33480
City, State, ZIP [®]	
PS Form 3800, August 2000	
See reverse for instructions	

WORTH AVE PALM BEACH FL 33480
Postmark
HARDY
APR 17 2008



TOWN OF PALM BEACH POLICE DEPARTMENT

A NATIONAL AND STATE ACCREDITED LAW ENFORCEMENT AGENCY



EXHIBIT H

May 15, 2008

E. Nordin Gilbertson
151 Chilean Ave.
Palm Beach, FL 33480

CERTIFIED MAIL
7007 3020 0000 7499 2130

Re: Case # 08-2478, 151 Chilean Ave., E. Nordin Gilbertson

Violation of Chapter 134, Section 134-889 of the Town of Palm Beach Code of Ordinances, commercial use of land in the R-B low density residential district.

The Code Enforcement Board heard testimony at the Code Enforcement Board Hearing held the 15th day of May, 2008 and based on the evidence, the Code Enforcement Board enters the following FINDINGS OF FACT, CONCLUSIONS OF LAW, and ORDER.

FINDINGS OF FACT

VIOLATION of Chapter 134, Section 134-889 of the Town of Palm Beach Code of Ordinances continues to exist.

CONCLUSIONS OF LAW

VIOLATION of Chapter 134, Section 134-889 of the Town of Palm Beach Code of Ordinances continues to exist.

E. Nordin Gilbertson
May 15, 2008
Page 2

ORDER

It is the order of this Board regarding Case #08-2478 that the violator is assessed a fine in the amount of \$250.00 Dollars a day, commencing on May 2, 2008 and continuing until compliance is achieved. Upon complying, it is the responsibility of the violator to notify a Town of Palm Beach Code Enforcement Officer at (561) 27-7080 to request a re-inspection of the property.

Failure to pay the above ordered fine and administrative costs within ten (10) days will result in a lien being filed against your property.

DONE AND ORDERED this 15th day of May, 2008


Timothy Hoffman
Chairman, Code Enforcement Board

cc: Case File
Property File

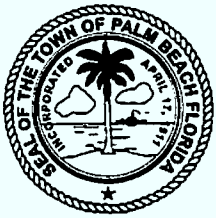
7007 3020 0000 7499 2130

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(Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com	
OFFICIAL	
Postage	\$.42
Certified Fee	2.70
Return Receipt Fee (Endorsement Required)	2.20
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 5.32
Sent To	E. Nordin Gilbertson
Street, Apt. No., or PO Box No.	151 Chilean Ave.
City, State, ZIP+4	Palm Beach, FL 33480

PS Form 3800, Apr 07

Postmark Here

(561) 227-7080 • Fax (561) 335-4776 • www.palmbeach.gov



TOWN OF PALM BEACH POLICE DEPARTMENT

AGENCY



EXHIBIT I

FILE NUM 20080286774 OR BOOK PAGE 227870488 DATE: 07/31/2008 16:10:48 P g 0488: (1pg)
Sharon R. Bock, CLERK & COMPTROLLER

May 15, 2008

E. Nordin Gilbertson
151 Chilean Ave.
Palm Beach, FL 33480

CERTIFIED MAIL
7007 3020 0000 7499 2130

Re: Case # 08-2478, 151 Chilean Ave., E. Nordin Gilbertson

LEGAL DESCRIPTION:
PCN: 50-43-43-23-05-008-0110
Royal Park Add Lts 11 to 14 Inc Blk 8

Violation of Chapter 134, Section 134-889 of the Town of Palm Beach Code of Ordinances, commercial use of land in the R-B low density residential district.

The Code Enforcement Board heard testimony at the Code Enforcement Board Hearing held the 15th day of May, 2008 and based on the evidence, the Code Enforcement Board enters the following FINDINGS OF FACT, CONCLUSIONS OF LAW, and ORDER.

FINDINGS OF FACT

VIOLATION of Chapter 134, Section 134-889 of the Town of Palm Beach Code of Ordinances continues to exist.

CONCLUSIONS OF LAW

VIOLATION of Chapter 134, Section 134-889 of the Town of Palm Beach Code of Ordinances continues to exist.

ORDER

It is the order of this Board regarding Case #08-2478 that the violator is assessed a fine in the amount of \$250.00 Dollars a day, commencing on May 2, 2008 and continuing until compliance is achieved. Upon complying, it is the responsibility of the violator to notify a Town of Palm Beach Code Enforcement Officer at (561) 27-7080 to request a re-inspection of the property.

Failure to pay the above ordered fine and administrative costs within ten (10) days will result in a lien being filed against your property.

DONE AND ORDERED this 15th day of May, 2008

Timothy Hoffman
Chairman, Code Enforcement Board

cc: Case File
Property File

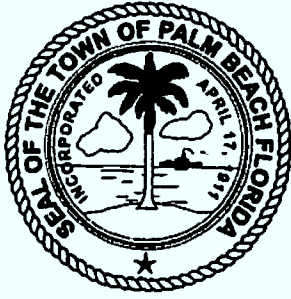
CLERK'S CERTIFICATE

STATE OF FLORIDA)
COUNTY OF PALM BEACH) ss:
TOWN OF PALM BEACH)

I, SUSAN A. EICHHORN, HEREBY CERTIFY THAT I am the duly qualified and acting Clerk of the Town of Palm Beach, Florida; that the above and foregoing is a true and correct copy of a Document the original of which is on file in the Office of the Town Clerk of the Town of Palm Beach, Florida.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said Town, this 14th day of July, A.D. 2008

TOWN SEAL:
SUSAN A. EICHHORN
TOWN CLERK



TOWN OF PALM BEACH

EXHIBIT J

January 3, 2011

Erik Gilbertson
151 Chilean Ave.
Palm Beach, FL 33480

CERTIFIED MAIL
7196 9008 9040 0034 7359

Re: Case # 07-2089, 151 Chilean Ave., Erik Gilbertson
Case # 08-2478, 151 Chilean Ave., Erik Gilbertson

Dear Property Owner,

The Town Council voted at their November 9, 2010 meeting to list the names of persons with overdue fines and fees owed to the Town in an advertisement in the Palm Beach Daily News. This correspondence is to inform you that you have \$590,400.00 in unpaid fines and fees and unless they are paid prior to January 31, 2011, your name and the fine amount will be included in this list. Please be advised that both cases have a running \$250.00 a day fine and the amount quoted above is what is due as of January 31, 2011.

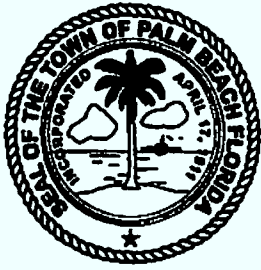
Checks should be made payable to the Town of Palm Beach and mailed to the Town of Palm Beach, Finance Department, 360 S. County Road, Palm Beach.

If you have any questions, please contact the Code Enforcement Unit at (561) 227-7080.

Sincerely,

Jane Struder
Finance Director

cc: Code Enforcement File
Property File



TOWN OF PALM BEACH POLICE DEPARTMENT



ANA

NT AGENCY

EXHIBIT K

March 1, 2011

E. Nordin Gilbertson
151 Chilean Ave.
Palm Beach, FL 33480

CERTIFIED/REGULAR MAIL
7196 9008 9040 0112 3389

NOTICE OF CODE VIOLATION AND HEARING

151 Chilean Ave., Palm Beach

Case # CE 11-105

Property Control Number: 50-43-43-23-05-008-0110

Dear Property Owner,

A recent re-inspection of your property revealed you have not complied with the Code Written Warning issued February 10, 2011 and the fence structure on the west side of your property remains without benefit of a permit.

Chapter 18, Section 18-241 of the Town of Palm Beach Code of Ordinances and Florida Building Code, Section 105 requires permits to construct, enlarge, alter, repair, move, or demolish any structure or building.

Please obtain all permits and inspections required for the new fence or remove the fence and all related fencing materials from the property by **March 11, 2011**.

If compliance with the Town Ordinances is not met within this time frame, you are hereby notified there will be a public hearing before the Code Enforcement Board on **March 17, 2011 at 2:00 p.m.** in the second floor Town Council Chambers at Town Hall, 360 S. County Road, Palm Beach.

Should you decide not to be present, the hearing will be held in your absence. If you are found in violation of the Town Code, the Code Enforcement Board has the power by law to levy fines up to Two Hundred Fifty (\$250.00) Dollars a day against you and your property for every day any violation continues beyond the date set in the order for compliance. An administrative fee of One Hundred Fifty (\$150.00) Dollars for the cost of the hearing may be assessed to you should your case be heard.

E. Nordin Gilbertson
March 1, 2011
Page 2

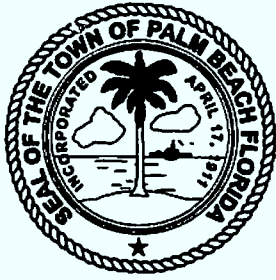
If you have any questions, please do not hesitate to contact me at (561) 227-6423. Your immediate attention to this matter is appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rob Walton', written in a cursive style.

Robert Walton
Lead Code Enforcement Officer

cc: Code Enforcement File
Property File



TOWN OF PALM BEACH POLICE DEPARTMENT



A NATIO

T AGENCY

EXHIBIT L

March 17, 2011

BEFORE THE CODE ENFORCEMENT BOARD OF THE TOWN OF PALM BEACH

ORDER FINDING VIOLATION

E. Nordin Gilbertson
151 Chilean Ave.
Palm Beach, FL 33480

CERTIFIED MAIL
7196 9008 9040 0146 8862

Re: Case # CE 11-105, 151 Chilean Ave., E. Nordin Gilbertson

Violation of Chapter 18, Section 18-241 of the Town of Palm Beach Code of Ordinances and Florida Building Code, Section 105, permits required to construct, enlarge, alter, repair, move, or demolish any structure or building

The Code Enforcement Board heard testimony at the Code Enforcement Board Hearing held the 17th day of March, 2011 and based on the evidence, the Code Enforcement Board enters the following FINDINGS OF FACT, CONCLUSIONS OF LAW and ORDER.

FINDINGS OF FACT

1. The property owner was not present at the hearing and there was a finding of proper notice.
2. The Town of Palm Beach Code Enforcement Officer testified and produced photographs of the violation.

CONCLUSIONS OF LAW

1. Violation of Chapter 18, Section 18-241 of the Town of Palm Beach Code of Ordinances does exist.

E. Nordin Gilbertson
March 17, 2011
Page 2

ORDER

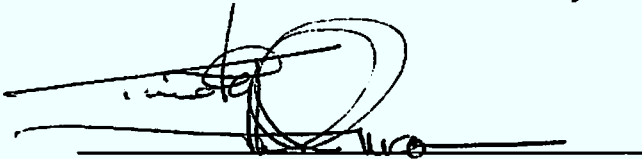
It is the order of this Board regarding Case CE 11-105 to find the violator in non-compliance, assess administrative costs in the amount of \$150.00 and to give them until **March 31, 2011** to achieve compliance.

Upon complying, it is the responsibility of the violator to notify the Town of Palm Beach Code Enforcement Office at (561) 227-7080 to request a re-inspection of the property.

Should compliance with Town Ordinances not be obtained as prescribed by the Board, let this Order serve as notice that a fine of Two Hundred Fifty (\$250.00) Dollars a day may be considered and imposed by the Board at its next regularly scheduled hearing on **April 21, 2011**.

Failure to pay the above ordered administrative costs within ten (10) days will result in a lien being filed against your property. A certified copy of this Order may be recorded in the Public Records of Palm Beach County, Florida, and, once recorded, shall constitute a lien against the property of the original amount upon which the violation existed and upon any other real or personal property owned by the Respondent, pursuant to Chapter 162, Florida Statutes for the original amount.

DONE AND ORDERED this 17th day of March, 2011



Timothy Hoffman
Chairman, Code Enforcement Board

cc: Case File
Property File

TO:
E. Nordin Gilbertson
151 Chilean Ave.
Palm Beach, FL 33480

SENDER:

Houston
REFERENCE:
CE 11-105/Order

7196 9008 9040 0146 8862
PS Form 3800, January 2005

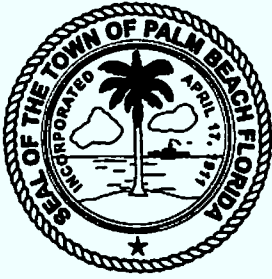
RETURN RECEIPT SERVICE	Postage	0.44
	Certified Fee	2.80
	Return Receipt Fee	1.10
	Restricted Delivery	0.00
	Total Postage & Fees	4.34

US Postal Service
**Receipt for
Certified Mail**

No Insurance Coverage Provided
Do Not Use for International Mail

POSTMARK OR DATE

MAR 22 2011



TOWN OF PALM BEACH POLICE DEPARTMENT



AN/

MENT AGENCY

EXHIBIT M

April 21, 2011

BEFORE THE CODE ENFORCEMENT BOARD OF THE TOWN OF PALM BEACH

ORDER ASSESSING FINE

E. Nordin Gilbertson
151 Chilean Ave.
Palm Beach, FL 33480

CERTIFIED MAIL
7196 9008 9040 0219 8751

Re: Case # CE 11-105, 151 Chilean Ave., E. Nordin Gilbertson

Violation of Chapter 18, Section 18-241 of the Town of Palm Beach Code of Ordinances and Florida Building Code, Section 105, permits required to construct, enlarge, alter, repair, move, or demolish any structure or building

The Code Enforcement Board heard testimony at the Code Enforcement Board Hearing held the 21st day of April, 2011 and based on the evidence, the Code Enforcement Board enters the following FINDINGS OF FACT, CONCLUSIONS OF LAW and ORDER.

FINDINGS OF FACT

1. The property owner was not present at the hearing and there was a finding of proper notice.
2. The Town of Palm Beach Code Enforcement Officer briefly reviewed the facts of the case.

CONCLUSIONS OF LAW

1. Violation of Chapter 18, Section 18-241 of the Town of Palm Beach Code of Ordinances, continues to exist.

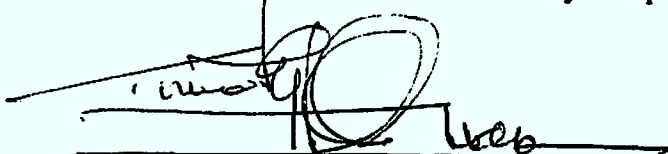
E. Nordin Gilbertson
April 21, 2011
Page 2

ORDER IMPOSING LIEN

It is the order of this Board regarding Case CE 11-105 to assess a fine in the amount of \$ 100.00 a day, commencing on **April 1, 2011** and continuing until compliance is achieved. A certified copy of this Order may be recorded in the Public Records of Palm Beach County, Florida, and, once recorded, shall constitute a lien against the property of the original amount upon which the violation existed and upon any other real or personal property owned by the Respondent, pursuant to Chapter 162, Florida Statutes for the original amount.

Upon complying, it is the responsibility of the violator to notify the Town of Palm Beach Code Enforcement Office at (561) 227-7080 to request a re-inspection of the property.

DONE AND ORDERED this 21st day of April, 2011



Timothy Hoffman
Chairman, Code Enforcement Board

cc: Case File
Property File

E. Nordin Gilbertson
TO: 151 Chilean Ave.
Palm Beach, FL 33480

SENDER: Houston

REFERENCE: CE 11-105/Order
7196 9008 9040 0219 8751

PS Form 3800, January 2005

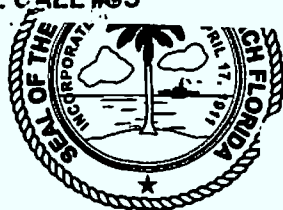
RETURN
RECEIPT
SERVICE

Postage	0.44
Certified Fee	2.85
Return Receipt Fee	1.15
Restricted Delivery	0.00
Total Postage & Fees	4.44

US Postal Service
**Receipt for
Certified Mail**

No Insurance Coverage Provided
See Note 1 for International Mail

POSTMARK OR DATE



TOWN OF PALM BEACH

DEPARTMENT



EXHIBIT N

LAW ENFORCEMENT AGENCY

April 21, 2011

LEGAL DESCRIPTION:

PCN: 50-43-43-23-05-008-0110

Royal Park Add Lts 11 to 14 Inc. Blk 8

BEFORE THE CODE ENFORCEMENT BOARD OF THE TOWN OF PALM BEACH

ORDER ASSESSING FINE

E. Nordin Gilbertson
151 Chilean Ave.
Palm Beach, FL 33480

CERTIFIED MAIL
7196 9008 9040 0219 8751

Re: Case # CE 11-105, 151 Chilean Ave., E. Nordin Gilbertson

Violation of Chapter 18, Section 18-241 of the Town of Palm Beach Code of Ordinances and Florida Building Code, Section 105, permits required to construct, enlarge, alter, repair, move, or demolish any structure or building

The Code Enforcement Board heard testimony at the Code Enforcement Board Hearing held the 21st day of April, 2011 and based on the evidence, the Code Enforcement Board enters the following FINDINGS OF FACT, CONCLUSIONS OF LAW and ORDER.

FINDINGS OF FACT

1. The property owner was not present at the hearing and there was a finding of proper notice.
2. The Town of Palm Beach Code Enforcement Officer briefly reviewed the facts of the case.

CONCLUSIONS OF LAW

1. Violation of Chapter 18, Section 18-241 of the Town of Palm Beach Code of Ordinances, continues to exist.

FILE NUM 20110152308 OR BOOK PAGE 244821832 DATE: 04/27/2011 16:20:05 Pgs 1832 - 1833; (2pgs)
Sharon R. Beck, CLERK & COMPTROLLER

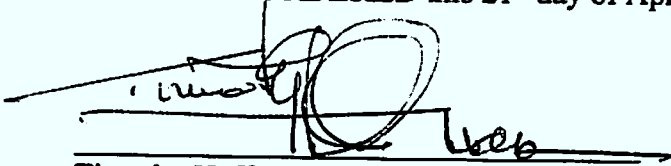
E. Nordin Gilbertson
April 21, 2011
Page 2

ORDER IMPOSING LIEN

It is the order of this Board regarding Case CE 11-105 to assess a fine in the amount of \$ 100.00 a day, commencing on **April 1, 2011** and continuing until compliance is achieved. A certified copy of this Order may be recorded in the Public Records of Palm Beach County, Florida, and, once recorded, shall constitute a lien against the property of the original amount upon which the violation existed and upon any other real or personal property owned by the Respondent, pursuant to Chapter 162, Florida Statutes for the original amount.

Upon complying, it is the responsibility of the violator to notify the Town of Palm Beach Code Enforcement Office at (561) 227-7080 to request a re-inspection of the property.

DONE AND ORDERED this 21st day of April, 2011



Timothy Hoffman
Chairman, Code Enforcement Board

cc: Case File
Property File

CLERK'S CERTIFICATE

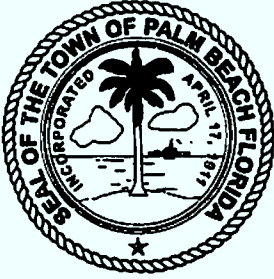
STATE OF FLORIDA)
COUNTY OF PALM BEACH) ss:
TOWN OF PALM BEACH)

I, Susan Owens, **HEREBY CERTIFY THAT** I am the duly qualified and acting Clerk of the Town of Palm Beach, Florida; that the above and foregoing is a true and correct copy of a Document the original of which is on file in the Office of the Town Clerk of the Town of Palm Beach, Florida.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said Town, this 25 day of April A.D. 20 11

TOWN SEAL


SUSAN OWENS
TOWN CLERK



TOWN OF PALM BEACH POLICE DEPARTMENT



EXHIBIT O

June 18, 2012

E. Nordin Gilbertson
Charlotte B. Gilbertson
151 Chilean Ave.
Palm Beach, FL 33480

CERTIFIED/REGULAR MAIL
7196 9008 9040 1003 5826

NOTICE OF FORECLOSURE HEARING

151 Chilean Ave., Palm Beach

Case # 07-2089, 08-2478 & CE 11-105 Property Control Number: 50-43-43-23-05-008-0110

Dear Property Owners,

On April 25, 2007, the Code Enforcement Board found you in violation of Chapter 42, Section 42-86 and Chapter 42-87 of the Town of Palm Beach Code of Ordinances, accumulation of outside yard debris, inoperable boat trailer in side yard and inoperable fiberglass boat against side wall, vehicles parked on yard grass, a shed structure not maintained in good condition, peeling paint and deteriorating wood trim.

You were given until May 14, 2007 to achieve compliance by correcting all violations. Compliance was not achieved and on May 17, 2007 you were ordered to pay a fine in the amount of \$250.00 a day, commencing on May 15, 2007 and continuing until compliance is achieved. A lien was filed against the property on January 31, 2008. As of this date, that fine stands at \$ 465,400.00.

On April 17, 2008, the Code Enforcement Board found you in Violation of Chapter 134, Section 134-889 of the Town of Palm Beach Code of Ordinances, the commercial use of land in the R-B low density residential district for installing brick pavers on a side yard and renting parking spaces and you were given until May 1, 2008 to come into compliance. Compliance was not achieved and on May 15, 2008 you were ordered to pay a fine in the amount of \$250.00 a day, commencing on May 2, 2008 and continuing until compliance is achieved. A second lien was filed against the property on July 31, 2008. As of this date, that fine stands at \$ 377,150.00.

On March 17, 2011, the Code Enforcement Board found you in violation of Chapter 18, Section 18-241 of the Town of Palm Beach Code of Ordinances for constructing a wooden fence without the required permits first being obtained and you were given until March 31, 2011 to come into compliance. Compliance was not achieved and on April 21, 2011 you were ordered to pay a

E. Nordin Gilbertson
Charlotte B. Gilbertson
June 18, 2012
Page 2

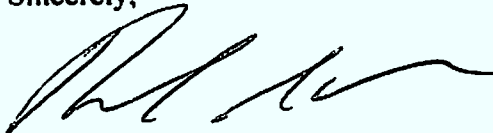
fine in the amount of \$100.00 a day, commencing on April 1, 2011 and continuing until compliance is achieved. A third lien was filed against the property on April 27, 2011. The property was brought into compliance on May 3, 2011 but the fine ran for a total of 32 days and currently stands at \$ 3,350.00 which includes \$150.00 administrative costs.

You are hereby formally notified that on **July 19, 2012 at 2:00 p.m.** there will be a public hearing before the Code Enforcement Board in the second floor Town Council Chambers at Town Hall, 360 S. County Road, Palm Beach to consider foreclosure action on the above referenced property.

Should you decide not to be present, the hearing will be held in your absence. Chapter 2, Section 2-435 of the Town of Palm Beach Code of Ordinances gives the Code Enforcement Board the authorization to initiate foreclosure proceedings for unpaid liens on property.

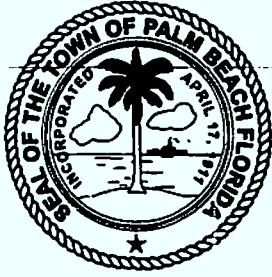
If you have any questions or need additional information, please contact me at (561) 227-6423.

Sincerely,



Robert S. Walton
Lead Code Enforcement Officer

cc: Code Enforcement File
Property File



**TOWN OF PALM BEACH
POLICE DEPARTMENT**



EXHIBIT P

July 19, 2012

BEFORE THE CODE ENFORCEMENT BOARD OF THE TOWN OF PALM BEACH

POSTPONEMENT ORDER

E. Nordin Gilbertson
Charlotte B. Gilbertson
151 Chilean Ave.
Palm Beach, FL 33480

CERTIFIED MAIL
7196 9008 9040 1066 1025

Re: Case # CE 11-105, 151 Chilean Ave., E. Nordin Gilbertson

Violation of Chapter 42, Section 42-86, Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, accumulation of outside yard debris, inoperable boat trailer in side yard and inoperable fiberglass boat, vehicles parked on grass, shed structure not maintained in good condition, peeling paint and deteriorating wood trim not allowed; Violation of Chapter 134, Section 134-889, commercial use of land in the R-B low density residential district, installation of brick pavers and renting parking spaces not allowed; Violation of Chapter 18, Section 18-241 and Florida Building Code, Section 105, permits required to construct, enlarge, repair, move or demolish any structure or building

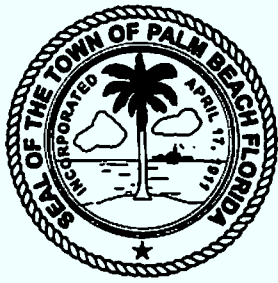
ORDER

It is the order of this Board regarding Case # CE 11-105 to postpone it until the **August 16, 2012** meeting.

DONE AND ORDERED this 19th day of July, 2012.

Timothy Hoffman
Chairman, Code Enforcement Board

cc: Case File
Property File



TOWN OF PALM BEACH POLICE DEPARTMENT



EXHIBIT Q

August 16, 2012

BEFORE THE CODE ENFORCEMENT BOARD OF THE TOWN OF PALM BEACH

FORECLOSURE ACTION ORDER

E. Nordin Gilbertson
Charlotte B. Gilbertson
151 Chilean Ave.
Palm Beach, FL 33480

CERTIFIED MAIL
7196 9008 9040 1123 7922

Re: Case # 07-2089, 151 Chilean Ave., Erik Gilbertson
Case # 08-2478, 151 Chilean Ave., E. Nordin Gilbertson
Case # CE 11-105, 151 Chilean Ave., E. Nordin Gilbertson

Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, it shall be unlawful and constitute a nuisance for any owner of land within the Town to allow building materials, non operative boats, automobiles or other such items to accumulate and all exterior walls, roofs, doors and windows shall be reasonably free of cracks, painted and shall be kept in a sound condition and good repair; Violation of Chapter 134, Section 134-889, commercial use of land in the R-B low density residential district; Violation of Chapter 18, Section 18-241 of the Town of Palm Beach Code of Ordinances and Florida Building Code, Section 105, permits required to construct, enlarge, alter, repair, move or demolish any structure or building.

The Code Enforcement Board heard testimony at the Code Enforcement Board Hearing held the 16th day of August, 2012 and based on the evidence, the Code Enforcement Board enters the following FINDINGS OF FACT, CONCLUSIONS OF LAW and ORDER.

FINDINGS OF FACT

1. The property owner was not present at the hearing and the property was posted in accordance with F.S.S. 162.12(1)(a).
2. The Town of Palm Beach Code Enforcement Officer briefly reviewed the cases and requested the Board approve the commencement of foreclosure action on this property.

E. Nordin Gilbertson
August 16, 2012
Page 2

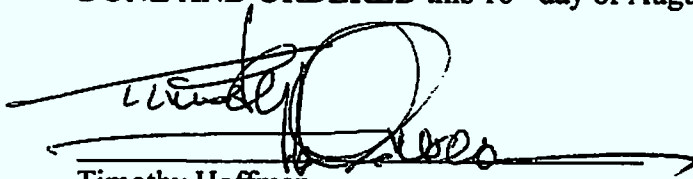
CONCLUSIONS OF LAW

1. Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances continues to exist.
2. Violation of Chapter 134, Section 134-889 of the Town of Palm Beach Code of Ordinances continues to exist.
3. Violation of Chapter 18, Section 18-241 of the Town of Palm Beach Code of Ordinances and Florida Building Code, Section 105 no longer exists.

ORDER

It is the order of this Board regarding Case # 07-2089, Case # 08-2478 and Case # CE 11-105 to recommend the Town Council proceed with foreclosure.

DONE AND ORDERED this 16th day of August, 2012.

A handwritten signature in black ink, appearing to read 'Timothy Hoffman', is written over a horizontal line.

Timothy Hoffman
Chairman, Code Enforcement Board

cc: Case File
Property File

EXHIBIT R

Case #	Name	Address	Date Board Order	CEB costs	Daily Running Fine	Date Costs or Fine Assessed or started	Current Date or Date Fine Stopped	Days out of compliance	Total Running Fine	Total Due	Comments	Date Lien Recorded
07-2089	Erik Gilbertson	151 Chilean Ave.	4/25/2007	\$150.00	\$250.00	5/15/2007	9/28/2012	1963	\$490,750.00	\$490,900.00	\$150 CEB 4/25/07; \$250/day start 5/15/07.	1/31/2008
08-2478	E. Nordin Gilbertson	151 Chilean Ave.	4/17/2008	\$150.00	\$250.00	5/2/2008	9/28/2012	1610	\$402,500.00	\$402,650.00	\$150 CEB 4/17/08; \$250/day start 5/2/08	7/31/2008
CE 11-105	E. Nordin Gilbertson	151 Chilean Ave.	3/17/2011	\$150.00	\$100.00	4/1/2011	5/3/2011	32	\$3,200.00	\$3,350.00	\$150 CEB on 3/17/11; \$100 day fine start 4/1/11	4/27/2011
									Grand Total	\$896,900.00		

TOWN OF PALM BEACH

Town Council Meeting on: October 9, 2012

Section of Agenda

Regular Agenda - New Business

Agenda Title

Appointment of an Alternate Member to the Planning and Zoning Commission.

Presenter

John Page, Director of Planning, Zoning, and Building

Supporting Documents

- Memorandum dated October 1, 2012, from John Page, Director of Planning, Zoning, & Building
- Ballot
- Roster
- Attendance and Voting Conflict Record

TOWN OF PALM BEACH

Information for Town Council Meeting on: October 9, 2012

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: Planning and Zoning Commission Appointments

Date: October 1, 2012

STAFF RECOMMENDATION

- Town Council made appointments to the Planning and Zoning Commission at their September 11 meeting. **Peter S. Broberg** was appointed as an alternate at that time. His resignation necessitates one additional appointment be made in October.
- Staff recommends that the Town Council appoint an alternate member to the Planning and Zoning Commission to fill the seat being vacated as a result of the resignation of newly appointed alternate member **Peter S. Broberg**.

GENERAL INFORMATION

- Pursuant to the news release notifying the public of the vacancies on the Planning and Zoning Commission, three persons submitted Applications for Service on the Planning and Zoning Commission together with other appropriate qualifying information.
- The applicants listed on the attached ballot are registered voters in the Town of Palm Beach, as required by Section 2-329 of the Town of Palm Beach Code of Ordinances.

Attachments

JP: dam

cc: Susan A. Owens, Town Clerk
Veronica B. Close, Assistant Director of Planning, Zoning & Building
Paul Castro, Zoning Administrator

**BALLOT FOR APPOINTMENT OF ALTERNATE MEMBERS
TO THE PLANNING & ZONING COMMISSION**
Town Council Meeting on October 9, 2012

Position(s) to be filled: 1 Alternate Members (Terms to expire 9/30/2015)
(due to resignation of Peter S. Broberg)

Please circle 1 name(s) from the list of names appearing below

Alternate Members Applying for Re-appointment
(Listed alphabetically)

Michael Vincent John Spaziani Completing Term 1

Others Who Have Submitted Applications
(Listed alphabetically)

Thomas Greenbaum

Alan N. Horwitz

Signature of Town Council Member: _____

Ballot Form 10/09/2012



PLANNING & ZONING COMMISSION MEMBERS

C. Tanner Rose, Jr. (Chair)

561-838-4962 (Home)

315 S Lake Dr., #2D
Palm Beach, FL 33480First Appointed: 9/8/2008 (Alternate)

Term Expires: 9/30/2009 (Term 0)

(Fulfilling the balance of Mr. Wideman's unexpired alternate member term, 12 months, which is less than 50% of a term, and as such, will not count as a first term for him)

Appointed: 8/11/2009 (Regular Member)

Term Expires: 09/30/2012 (Term 1)

(Fulfilling the balance of Mr. Dowell's unexpired regular term (1 month) which would have been counted as term 0. However, Town Council appointment this date was for full term to expire 2012).

(Elected as Chairman by P&ZC Members at 8/14/2012 P&ZC Meeting)

Re-Appointed: 9/11/2012 (Regular Member)

Term Expires: 09/30/2015 (Term 2)

Leslie A. Shaw (Vice Chair)

561-655-5858 (Home)

318 Seaspray Avenue
Palm Beach, FL 33480

561-296-1111 (Office)

First Appointed: 2/14/06 (Alternate)

Term Expires: 2/2009 (Term 1)

Appointed: 2/13/07 (Regular Member)Term Expires: ~~2/2010~~ (Term 1) 9/30/2010Re-appointed: 10/12/10 (Regular Member)

Term Expires: 9/30/13 (Term 2)

Eugene Lawrence

561-659-5645 (Home)

205 Worth Avenue #301
Palm Beach, FL 33480

561-655-0670 (Office)

First Appointed: 2/13/07 (Alternate)Term Expires: ~~2/2009~~* 9/30/2009 (Term 1)

(*fulfilling balance of Mr. Guttman's unexpired Alternate Member term, & serving more than 50% of a term)

Appointed: 2/12/2008 (Regular)

Term Expires: 9/30/2008 (Term 0)

(Mr. Lawrence will fulfill the balance of Ms. Murphy's term, 7 months, which is less than 50% of a term, and as such, will not count as a first term for him)

Re-appointed: 9/8/2008 (Regular)

Term Expires: 9/30/2011 (Term 1)

Re-appointed: 10/11/2011 (Regular)

Term Expires: 9/30/2014 (Term 2)

Floyd L. Wideman, Jr.

561-841-8999 (Home)

260 El Dorado Lane
Palm Beach, FL 33480First Appointed: 2/13/2007 (Alternate)Term Expires: ~~2/2009~~* 9/30/2009 (Term 1)

(*fulfilling balance of Mr. Shaw's unexpired Alternate Member term, and serving more than 50% of a term)

Appointed: 9/8/2008 (Regular)

Term Expires: 9/30/2011 (Term 1)

Re-appointed: 10/11/2011 (Regular)

Term Expires: 9/30/2014 (Term 2)

PLANNING & ZONING COMMISSION MEMBERS (continued)

Martin I. Klein 561-881-8000 (Home)
1060 North Ocean Blvd. 561-655-0005 (Office)
Palm Beach, FL 33480

First Appointed: 5/12/2009 (Regular) Term Expires: 9/30/2010 (Term 0)
(*fulfilling the balance of Mr. Guttman's unexpired member term, 16.5 months, which is less than 50% of a term, and as such, will not count as a first term for him)

Re-appointed: 10/12/2010 (Regular) Term Expires: 9/30/2013 (Term 1)

Lewis Crampton 561-540-1520 (Home)
2335 South Ocean Blvd., #5B 262-374-0022 (Cell)
Palm Beach, FL 33480

First Appointed: 3/10/2009 (Alternate) Term Expires: 9/30/2009 (Term 0)
(*fulfilling the balance of Mr. Klein's unexpired alternate term, 6 months, which is less than 50% of a term, and as such will not count as a first term for him)

Appointed: 9/10/2009 (Alternate) Term Expires: 9/30/2012 (Term 1)

Appointed: 9/11/2012 (Regular) Term Expires: 9/30/2015 (Term 1)

Barbara (Bobbie) Lindsay Buck 561-842-3954 (Home)
212 Caribbean Road 561-797-9405 (Work)
Palm Beach, FL 33480

First Appointed: 09/11/2012 Term Expires: 9/30/2015 (Term 1)

ALTERNATE MEMBERS

Jeffrey A. Cloninger (Alternate) 561-659-1387 (Home)
411 Brazilian Avenue 561-659-6640 (Work)
Palm Beach, FL 33480

First Appointed: 08/11/2009 (Alternate) Term Expires: 9/30/2012 (Term 1)
(*fulfilling the balance of Mr. Ryan's unexpired term, due to Mr. Ryan's resignation on June 4, 2009. Balance of term was less than 3 months and would have been counted as term 0. However, Town Council appointment this date was for full term to expire 2012).

Re-Appointed: 09/11/2012 (Alternate) Term Expires: 9/30/2015 (Term 2)

Peter S. Broberg (Alternate) 561-842-7270 (Home)
223 Peruvian Avenue 561-655-5166 (Work)
Palm Beach, FL 33480

First Appointed: 09/11/2012 (Alternate) Term Expires: 9/30/2015 (Term 1)
Resigned: 9/18/2012

Bruce M. Langmaid (Alternate) 561-290-5916 (Home)
292 Orange Grove Rd. 202-489-9700 (Cell)
Palm Beach, FL 33480

First Appointed: 09/11/2012 (Alternate) Term Expires: 9/30/2015 (Term 1)

**TOWN OF PALM BEACH
PLANNING & ZONING COMMISSION**

ATTENDANCE RECORD 2012

	1/17/2012	2/21/2012	**3/12/2012	3/20/2012	4/17/2012	5/15/2012	6/19/2012	7/17/2012	8/21/2012	9/14/2012**	10/16/2012	11/20/2012	12/18/2012
MEMBERS													
John Schuler	P	P	P	P	*	U	*	P	*	A	/	/	/
Alan Golboro	P	P	P	P	*	D	*	P	*	A	/	/	/
Leslie Shaw	P	E	E	P	*	P	*	P	*	A	/	/	/
Eugene Lawrence	P	P	P	P	*	P	*	E	*	A	/	/	/
Floyd Wideman	P	P	P	P	*	P	*	P	*	P	/	/	/
Martin Klein	P	P	P	P	*	U	*	P	*	P	/	/	/
C. Tanner Rose	P	P	P	P	*	P	*	P	*	P	/	/	/
Lewis Crampton	X	X	X	X	X	X	X	X	X	X	/	/	/
Barbara Lindsay Buck	X	X	X	X	X	X	X	X	X	X	/	/	/
ALTERNATE MEMBERS													
Lewis Crampton	P	P	P	P	*	P	*	P	*	P	X	X	X
Jeffrey A. Cloninger	P	P	P	P	*	P	*	P	*	P	/	/	/
Michael Vincent John Spa	P	P	P	P	*	P	*	P	*	P	/	/	/
Peter S. Broberg	X	X	X	X	X	X	X	X	X	X	Resigned 09/12	Resigned 09/12	Resigned 09/12
Bruce M. Langmaid	X	X	X	X	X	X	X	X	X	X	/	/	/

LEGEND P=PRESENT
E=EXCUSED
U=UNEXCUSED
A=ABSENT PENDING CLASSIFICATION AS "EXCUSED" OR "UNEXCUSED"
*= Meeting cancelled
**ADDITIONAL MEETING 3/12/2012
*** Meeting rescheduled from 9/18 to 9/14
\\ Term ended

TOWN OF PALM BEACH

ATTENDANCE RECORD 2011

PLANNING & ZONING COMMISSION

	<u>1/18/2011</u>	<u>2/15/2011</u>	<u>3/15/2011</u>	<u>4/19/2011</u>	<u>5/17/2011</u>	<u>6/21/2011</u>	<u>7/19/2011</u>	<u>8/16/2011</u>	<u>9/20/2011</u>	<u>10/18/2011</u>	<u>11/15/2011</u>	<u>12/20/2011</u>
MEMBERS												
John Schuler	P	E	P	P	*	P	*	*	E	P	P	*
Alan Golboro	P	P	P	P	*	P	*	*	P	P	P	*
Leslie Shaw	P	P	P	P	*	P	*	*	P	U	P	*
Eugene Lawrence	P	P	P	P	*	P	*	*	P	P	P	*
Floyd Wideman	P	E	P	P	*	P	*	*	P	P	P	*
Martin Klein	P	P	P	P	*	P	*	*	P	P	P	*
C. Tanner Rose	P	P	P	P	*	P	*	*	P	P	E	*
ALTERNATE MEMBERS												
Lewis Crampton	P	P	P	P	*	P	*	*	P	P	P	*
Jeffrey A. Cloninger	P	P	U	P	*	P	*	*	P	P	P	*
Michael Vincent John Spaziani	P	P	P	P	*	P	*	*	P	P	P	*

LEGEND P=PRESENT

E=EXCUSED

U=UNEXCUSED

A=ABSENT PENDING CLASSIFICATION AS "EXCUSED" OR "UNEXCUSED"

*= Meeting cancelled

TOWN OF PALM BEACH

ATTENDANCE RECORD 2010

PLANNING & ZONING COMMISSION

<u>MEMBERS</u>	<u>1/19/2010</u>	<u>2/16/2010</u>	<u>3/16/2010</u>	<u>4/20/2010</u>	<u>5/18/2010</u>	<u>6/15/2010</u>	<u>7/20/2010</u>	<u>8/17/2010</u>	<u>9/21/2010</u>	<u>10/19/2010</u>	<u>11/16/2010</u>	<u>12/21/2010</u>
John Schuler	P	P	P	P	P	*	E	P	P	P	P	*
Alan Golboro	P	P	P	P	P	*	P	P	P	P	P	*
Leslie Shaw	P	P	P	U	P	*	P	U	P	P	P	*
Eugene Lawrence	P	P	P	P	P	*	P	P	P	P	P	*
Floyd Wideman	P	P	P	P	P	*	P	P	P	P	P	*
Martin Klein	P	U	P	P	P	*	P	P	E	P	P	*
C. Tanner Rose	P	P	P	P	P	*	U	P	P	P	P	*
<u>ALTERNATE MEMBERS</u>												
Lewis Crampton	P	P	E	P	P	*	P	P	P	P	P	*
Jeffrey A. Cloninger	P	P	P	P	P	*	U	P	P	P	P	*
Michael Vincent John Spaziani	P	P	P	P	P	*	P	P	P	P	P	*

LEGEND P=PRESENT

E=EXCUSED

U=UNEXCUSED

A=ABSENT PENDING CLASSIFICATION AS "EXCUSED" OR "UNEXCUSED"

*= Meeting cancelled

**TOWN OF PALM BEACH VOTING CONFLICT RECORD 2012
PLANNING & ZONING COMMISSION**

MEMBERS	<u>1/17/2012</u>	<u>2/21/2012</u>	<u>3/12/2012</u>	<u>3/20/2012</u>	<u>4/17/2012</u>	<u>5/15/2012</u>	<u>6/19/2012</u>	<u>7/17/2012</u>	<u>8/21/2012</u>	<u>9/14/2012</u>	<u>10/16/2012</u>	<u>11/20/2012</u>	<u>12/18/2012</u>
John Schuler	-	-	-	-	*	-	*	-	*	-	-	-	-
Alan Golboro	-	-	-	-	*	-	*	-	*	-	-	-	-
Leslie Shaw	-	-	-	-	*	-	*	-	*	-	-	-	-
Eugene Lawrence	-	-	-	-	*	-	*	-	*	-	-	-	-
Floyd Wideman	-	-	-	-	*	-	*	-	*	-	-	-	-
Martin Klein	-	-	-	-	*	-	*	-	*	-	-	-	-
C. Tanner Rose	-	-	-	-	*	-	*	-	*	-	-	-	-
Lewis Crampton	X	X	X	X	X	X	X	X	X	X			
Barbara Lindsay Buck	X	X	X	X	X	X	X	X	X	X			
ALTERNATE MEMBERS													
Lewis Crampton	-	-	-	-	*	-	*	-	*	-	X	X	X
Jeffrey A. Cloninger	-	-	-	-	*	-	*	-	*	-			
Michael Vincent John Spaziani	-	-	-	-	*	-	*	-	*	-	-	-	-
Peter S. Broberg	X	X	X	X	X	X	X	X	X	X	Resigned 9/12		
Bruce M. Langmaid	X	X	X	X	X	X	X	X	X	X			

LEGEND: - No conflict
V One Voting Conflict during a meeting
V2 Two Voting Conflicts during a meeting
V3 Three Voting Conflicts during a meeting
VPD Voting Conflict Previously declared (This category to be used when a conflict has been declared at a previous meeting, and the changes being reviewed are part of an ongoing project. Only count original declared voting conflict for ongoing projects per JCR.
* Meeting cancelled
\ Term ended
X New Appointments

**TOWN OF PALM BEACH VOTING CONFLICT RECORD 2011
PLANNING & ZONING COMMISSION**

<u>MEMBERS</u>	<u>1/18/2011</u>	<u>2/15/2011</u>	<u>3/15/2011</u>	<u>4/19/2011</u>	<u>5/17/2011</u>	<u>6/21/2011</u>	<u>7/19/2011</u>	<u>8/16/2011</u>	<u>9/20/2011</u>	<u>10/18/2011</u>	<u>11/15/2011</u>	<u>12/20/2011</u>
John Schuler	-	-	-	-	*	-	*	*	-	-	-	*
Alan Golboro	-	-	-	-	*	-	*	*	-	-	-	*
Leslie Shaw	-	-	-	-	*	-	*	*	-	-	-	*
Eugene Lawrence	-	-	-	-	*	-	*	*	-	-	-	*
Floyd Wideman	-	-	-	-	*	-	*	*	-	-	-	*
Martin Klein	-	-	-	-	*	-	*	*	-	-	-	*
C. Tanner Rose	-	-	-	-	*	-	*	*	-	-	-	*
<u>ALTERNATE MEMBERS</u>												
Lewis Crampton	-	-	-	-	*	-	*	*	-	-	-	*
Jeffrey A. Clininger	-	-	-	-	*	-	*	*	-	-	-	*
Michael Vincent John Spaziani	-	-	-	-	*	-	*	*	-	-	-	*

LEGEND: V One Voting Conflict during a meeting
V2 Two Voting Conflicts during a meeting
V3 Three Voting Conflicts during a meeting
VPD Voting Conflict Previously declared (This category to be used when a conflict has been declared at a previous meeting, and the changes being reviewed are part of an ongoing project. Only count original declared voting conflict for ongoing projects per JCR.

**TOWN OF PALM BEACH VOTING CONFLICT RECORD 2010
PLANNING & ZONING COMMISSION**

	<u>1/19/2010</u>	<u>2/16/2010</u>	<u>3/16/2010</u>	<u>4/20/2010</u>	<u>5/18/2010</u>	<u>6/15/2010</u>	<u>7/20/2010</u>	<u>8/17/2010</u>	<u>9/21/2010</u>	<u>10/19/2010</u>	<u>11/16/2010</u>	<u>12/21/2010</u>
<u>MEMBERS</u>												
John Schuler	-	-	-	-	-	-	-	-	-	-	-	-
Alan Golboro	-	-	-	-	-	-	-	-	-	-	-	-
Leslie Shaw	-	-	-	-	-	-	-	-	-	-	-	-
Eugene Lawrence	-	-	-	-	-	-	-	-	✓	-	-	-
Floyd Wideman	-	-	-	-	-	-	-	-	-	-	-	-
Martin Klein	-	-	-	-	-	-	-	-	-	-	-	-
C. Tanner Rose	-	-	-	-	-	-	-	-	-	-	-	-
<u>ALTERNATE MEMBERS</u>												
Lewis Crampton	-	-	-	-	-	-	-	-	-	-	-	-
Jeffrey A. Clinger	-	-	-	-	-	-	-	-	✓	-	-	-
Michael Vincent John Spaziani	-	-	-	-	-	-	-	-	-	-	-	-

LEGEND: V One Voting Conflict during a meeting
 V2 Two Voting Conflicts during a meeting
 V3 Three Voting Conflicts during a meeting
 VPD Voting Conflict Previously declared (This category to be used when a conflict has been declared at a previous meeting, and the changes being reviewed are part of an ongoing project. Only count original declared voting conflict for ongoing projects per JCR.

TOWN OF PALM BEACH

Town Council Meeting on: October 9, 2012

Section of Agenda

Ordinances - First Reading

Agenda Title

Ordinance No. 17- 2012 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 130, Vehicles for Hire, Certificate of Public Convenience and Necessity and Permit, Division 2, Section 130-71, Automobile Liability Insurance Requirement, by Amending Automobile Liability Insurance Requirements for Taxicab Certificates of Public Convenience and Necessity; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.

Presenter

Thomas G. Bradford, Deputy Town Manager

Supporting Documents

- Memorandum dated September 28, 2012, from Thomas G. Bradford, Deputy Town Manager
- Ordinance No. 17-2012

TOWN OF PALM BEACH

Information for Special Town Council Meeting on: October 9, 2012

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: Thomas G. Bradford, Deputy Town Manager

Re: Amendment of the Automobile Insurance Requirements for Taxicab Certificate of Public Convenience and Necessity (Permit) Holders
Ordinance No. 17-2012

Date: September 28, 2012

STAFF RECOMMENDATION

Staff recommends the Town Council adopt Ordinance No. 17-2012 which will reduce the automobile insurance requirements for Town taxicab permit holders to enable taxicab operators to provide proof of insurance to Town staff in compliance with the same insurance requirements in effect in Palm Beach County.

GENERAL INFORMATION

On September 4, Town staff conducted a drawing for the 25 Town Taxicab certificates of public convenience and necessity (permits) to be issued by the Town. Thirty-one expressions of interest were received for the 25 permits to be issued. Shortly thereafter we began to realize we might have a problem in regard to the insurance requirements for taxicab permit holders. The Town Code of Ordinances requires both limousine and taxicab permit holders to have “in full force and effect an insurance policy for each vehicle authorized in the amount of \$1,000,000 combined single limit each accident with an umbrella or excess coverage of \$1,000,000.”

To date, none of our potential taxicab permit holders has been able to either secure or afford the amount of insurance the Town requires. As to affordability, we did some research and concluded that in general the Town’s insurance requirement typically would cost about \$6,000 per vehicle, per year while the Palm Beach County taxicab permit requirement, which all taxicab operators are required to have, typically costs around \$3,000 per vehicle, per year. This is a major price difference for a taxicab operator. Recall that permitted taxicabs are only allowed to operate in Town from 10:00 PM to 4:00 AM the next day which is only 25% of the time they can legally operate elsewhere in the county. Also, the taxicab industry norm appears to be that the taxicab driver is an independent contractor that is required to furnish the insurance for the jurisdictions in which the taxicab operator proposes to work, not Yellow Cab, Checker Cab or Red and White Cab Company etc. that appears on the exterior of the vehicle.

Staff believes that if the Town wants to meet the demand for taxicab service we need to reduce the Town's insurance requirements to equal the insurance requirements of the County. County taxicab insurance requirements are as follows:

For each vehicle:

- \$125,000 personal injury or accident; and
- \$300,000 per occurrence; and
- \$50,000 property; or
- \$300,000 combined single limit

Based on the foregoing, we have prepared an ordinance that changes the Town taxicab automobile insurance requirements to exactly mirror those used by Palm Beach County and have recommended that this change be made.

TOWN ATTORNEY REVIEW

Ordinance No. 17-2012 has been reviewed by the Town Attorney and approved for legal form and sufficiency.

Attachment

cc: Kirk Blouin, Director of Public Safety
Jane Struder, Director of Finance
Rick Howe, Major, Police Department
Amy Wood, Accounting Supervisor
Donna Bragel, Payroll Specialist
Curtis Krauel, Captain, Police Department
Raychel Houston, Manager Parking and Code Enforcement
John C. Randolph, Town Attorney

ORDINANCE NO. 17-2012

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 130, VEHICLES FOR HIRE, CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND PERMIT, DIVISION 2, SECTION 130-71, AUTOMOBILE LIABILITY INSURANCE REQUIREMENT, BY AMENDING AUTOMOBILE LIABILITY INSURANCE REQUIREMENTS FOR TAXICAB CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

Section 1. The Code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 130, Automobile Insurance Requirement, to read as follows:

“Sec. 130-71. Automobile liability insurance requirement.

No certificate of public convenience and necessity or permit shall be issued or continued in operation unless there is in full force and effect an insurance policy for each vehicle authorized in the amount of \$1,000,000.00 combined single limit each accident with an umbrella or excess coverage of \$1,000,000.00 for limousines and \$125,000.00 for personal injury or accident; and \$300,000.00 per occurrence; and \$50,000.00 property or \$300,000.00 combined single limit for taxicabs. The town shall be endorsed as an additional insured under the liability insurance required herein. The policy shall comply with all requirements of the state. The policy shall inure to the benefit of any person who shall be injured or who shall sustain damage to property

proximately caused by the negligence of a holder, his servants or agents. Satisfactory evidence of the required policy in the form of a certificate of insurance acceptable to the town shall be filed with the required application for a certificate of public convenience and shall have as insurer thereon an insurance company authorized to do business in the state. A copy of the certificate of insurance required under this section shall be filed with the required application for a certificate of public convenience and necessity or permit and at any time before expiration of the policy should the certificate of insurance indicate that the policy expires prior to the cessation of the validity of the certificate of public convenience and necessity or permit issued by the town. Evidence of renewal of the policy shall be filed with the town prior to the respective expiration dates. Failure to maintain and renew the policy shall automatically revoke the certificate of public convenience and necessity or permit issued under this section. All insurance policies provided under this section shall be subject to review and approval of the town."

Section 2. Severability.

If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

Section 3. Repeal of Ordinances in Conflict.

All other ordinances of the Town of Palm Beach, Florida, or parts thereof which conflict with this or any part of this Ordinance are hereby repealed.

Section 4. Codification.

This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach.

Section 5. Effective Date.

This Ordinance shall take effect immediately upon its passage and approval, as provided by law.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this 9th day of October 2012 and for second and final reading on this 11th day of September 2012.

Gail L. Coniglio, Mayor

David A. Rosow, Council President

Robert Wildrick, Council President Pro Tem

William J. Diamond, Council Member

Richard M. Kleid, Council Member

Susan A. Owens, MMC, Town Clerk

Michael J. Pucillo, Council Member