



TOWN OF PALM BEACH

TOWN COUNCIL MEETING

TOWN HALL
COUNCIL CHAMBERS - SECOND FLOOR
360 SOUTH COUNTY ROAD

AGENDA

JANUARY 10, 2023

9:30 AM

Welcome

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

I. CALL TO ORDER AND ROLL CALL

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

II. INVOCATION AND PLEDGE OF ALLEGIANCE

III. MODIFICATIONS TO THE AGENDA

IV. APPROVAL OF AGENDA

V. PRESENTATIONS

- A.** Employee Retirement Proclamation
Danielle H. Moore, Mayor
- B.** Presentation by the Friends of Palm Beach
Diane Buhler

VI. BOARD AND COMMISSIONS PRESENTATIONS AND APPOINTMENTS

- A.** Presentations by the Applicants and Appointments to the Code Enforcement Board Page 6
Pat Gayle-Gordon, Acting Town Clerk

VII. COMMENTS OF MAYOR DANIELLE H. MOORE

VIII. COMMENTS OF TOWN COUNCIL MEMBERS

IX. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

X. APPROVAL OF CONSENT AGENDA (SEE NOTE 5)

A. MINUTES

- 1. Town Council Meeting Minutes Page 20
Pat Gayle-Gordon, Acting Town Clerk

November 15, 2022, Town Council Development Review Meeting Minutes
December 13, 2022, Town Council Meeting Minutes
December 14, 2022, Town Council Development Review Meeting Minutes
- 2. Approval of Major Matters Considered by the Architectural Review Commission at its Meeting of December 16, 2022 Page 82
Wayne Bergman, Director of Planning, Zoning and Building

B. RESOLUTIONS

- 1. RESOLUTION NO. 001-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order to The Corradino Group, Inc. in the Amount of \$199,962 for a Traffic Engineering and Parking Study. Page 88
Dean Mealy, Procurement and Contract Manager
- 2. RESOLUTION NO. 002-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order to Kimley-Horn and Associates, Inc. for FY23 Landfill Services in the Amount of \$103,890 and Establishing a Project Budget of \$114,000. Page 103
Dean Mealy, Procurement and Contract Manager
- 3. RESOLUTION NO. 004-2023 A Resolution of the Town Council of Page 112

the Town of Palm Beach, Palm Beach County, Florida, Amending the Department of Public Works Engineering Division Standards Applicable to Public Rights of Way and Easements, by Amending Chapter XII, Miscellaneous Provisions, Construction Parking & Construction Site Management, to Include NFPA 1, Chapter 16, Safeguarding Construction, Alteration, and Demolition Operations and the Town Code of Ordinances, Chapter 38, Emergency Services, Section 38-35, Contractor Activated False Alarms.

Wayne Bergman, Director of Planning, Zoning and Building

XI. BOARD/COMMISSION ANNUAL REPORT

- A.** Annual Report of the Recreation Advisory Commission Page 123
Nicholas Coniglio, Chair

XII. COMMITTEE REPORTS

- A.** Report of the Ordinances, Rules and Standards Committee Meeting Held on November 17, 2022 Page 129
Julie Araskog, Chair

XIII. REGULAR AGENDA

A. Matters Pulled From Consent Agenda: If needed

B. Old Business

1. Town-wide Undergrounding Project - Review of Project and Dashboard, Summary of Project Status Page 137
H. Paul Brazil, P.E., Director of Public Works
2. Annual Report from Palm Beach Island Cats Page 153
David Levitt, Palm Beach Island Cats

C. New Business

1. Discussion Regarding Expansion of Landmarks Program
Danielle H. Moore, Mayor / Wayne Bergman, Director of Planning, Zoning & Building
2. Review of a Stop Work Order Due to the Three-Strike Rule at 221 Ocean Terrace Page 154
Wayne Bergman, Director of Planning, Zoning and Building
3. Review of a Stop Work Order Due to the Three-Strike Rule at 346 Seabreeze Avenue for Multiple Strikes Page 166
Wayne Bergman, Director of Planning, Zoning and Building

XIV. ORDINANCES

A. First Reading

1. ORDINANCE NO. 001-2023 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Providing for Page 185

an Amendment to the Town's Budgets Adopted for the Fiscal Year Commencing October 1, 2022, and Providing an Effective Date.

Robert Miracle, Deputy Town Manager Finance & Administration

2. ORDINANCE NO. 002-2023 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 82 of the Town Code of Ordinances Relating to Personnel, at Article II, Employee Benefits, Division 2, Retirement System; Amending Subdivision I, in General, by Adding a New Section 82-77, Reemployment After Retirement; Amending Subdivision V, General Employees and Lifeguards, By Amending Section 82-147, Worker's Compensation Benefits Offset; Return of Retirant to Town Employment; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.

Page 190

Gillian Barth, Director of People & Culture

XV. ANY OTHER MATTERS

XVI. ADJOURNMENT

PLEASE TAKE NOTE:

Note 1: Please submit written comments/materials to council@townofpalmbeach.com or in person to the Town Clerk's Office, located at Town Hall, 360 South County Road. No written materials received after 3:30 p.m. on the Wednesday 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 3:30 p.m. on Wednesday 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.

Note 2: The progress of this meeting may be monitored by visiting the Town's website (townofpalmbeach.com) and clicking on "Meeting Audio" in the left column. If you have questions regarding that feature, please contact the Office of Information Technology (561) 227-6315. The audio recording of the meeting will appear within 24 hours after the conclusion of the meeting.

Note 3: 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.

Note 4: Disabled persons who need an accommodation in order to participate in the Town Council Meeting are requested to contact the Town Manager's Office at 838-5410 or through the Florida Relay Service by dialing 1-

800-955-8770 for voice callers or 1-800-955-8771 for TDD callers, at least two (2) working days before this meeting.

Note 5: Items listed on the Consent Agenda will be approved by one motion of the Town Council, unless the Mayor or an individual Council Member requests that any item(s) be moved to the Regular Agenda and individually considered.

Note 6: All back-up material for the items listed on the agenda are posted to the Town's website and emailed to all Stay Informed subscribers on the Friday before the Town Council meeting. To access the back-up materials and/or subscribe to the Stay Informed list, please visit the Town's website (townofpalmbeach.com).

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. The public also has the opportunity to speak to any item listed on the agenda, including the consent agenda, at the time the agenda item comes up for discussion.

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

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

TOWN OF PALM BEACH

Town Council Meeting on: January 10, 2023

Section of Agenda

Board and Commissions Presentations and Appointments

Agenda Title

Presentations by the Applicants and Appointments to the Code Enforcement Board

Presenter

Pat Gayle-Gordon, Acting Town Clerk

ATTACHMENTS:

- ▣ **Memorandum Dated January 4, 2023, from Pat Gayle-Gordon, Acting Town Clerk**
- ▣ **Attendance Record**
- ▣ **Status Sheet**
- ▣ **Sample Ballot**
- ▣ **Member Roster**
- ▣ **Application - Martin Klein**

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 10, 2023

TO: Mayor and Town Council

VIA: Kirk W. Blouin, Town Manager

FROM: Pat Gayle-Gordon, Acting Town Clerk

RE: Code Enforcement Board Appointment of One Regular Member

DATE: January 4, 2023

STAFF RECOMMENDATION

Staff recommends that the Town Council review the attached application and appoint one (1) regular member to the Code Enforcement Board. This member will fill the vacancy created due to the term expiration of Martin Klein who is eligible for reappointment.

GENERAL INFORMATION

The Town Clerk's office has received one (1) application seeking **RE-APPOINTMENT** from:

1. Martin Klein – 1060 North Ocean Blvd., Palm Beach, FL

Attachments

cc: Nicholas Caristo, Chief of Police
Carla Marcote, Board Clerk

Code Enforcement Board Attendance Record 2022

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

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

CODE ENFORCEMENT BOARD

Next appointment: **January 10, 2023 Town Council meeting**

Openings advertised via news release: **October 5, 2022**

Deadline to submit applications: **Tuesday, January 3, 2023, by 5:00 p.m.**

Number of openings: **1 Regular Member**

Applicants

<u>NAME</u>	<u>SEEKING</u>
Martin Klein	Reappointment

Current members and open seats

<u>NAME</u>	<u>TERM EXPIRES</u>
<u>Regular Members</u>	
Bram Majtlis, Chair	April 1, 2025
Scotch Peloso, Vice Chair	April 1, 2024
John B. McGowan	April 1, 2023
Linda K. Wartow	April 1, 2024
Martin I. Klein	January 1, 2023
Pamela Saba	April 1, 2025
Chris Larmoyeux	April 1, 2024
<u>Alternate Members</u>	
Pamela Davies	May 1, 2025
Harris Fried	March 1, 2025

Highlighted in yellow=term currently expiring/vacant

****=Applied for promotion to regular member**

BALLOT FOR APPOINTMENT OF **REGULAR** MEMBER(S)
TO THE **CODE ENFORCEMENT BOARD**
Town Council Meeting on **January 10, 2023**

Positions to be filled: 1 Regular Member

Please circle 1 from the list of names appearing below

Regular Member Applying for Reappointment

Martin Klein

Signature of Town Council Member: _____
Town Council Member

CODE ENFORCEMENT BOARD ROSTER

<u>Name & Address</u>	<u>Email Address</u>	<u>Appointment</u>	<u>Term Expires</u>
Bram Majtlis – Chairman 2275 S. Ocean Blvd. #207A Palm Beach, FL 33480 – Business Person	BMajtlis723@me.com 404-274-8113	4/2022 4/2019 6/2018	4/2025 (Term 2)*** 4/2022 (Term 1) 4/2019 (0 Less than 1.5 yrs. Alternate
Scotch Peloso – Vice Chair 244 Sunset Ave. Unit 5 Palm Beach, FL 33480 Tutor	palmbeach@gmail.com 561-247-1072	4/2021	4/2024 (Term 1)
John B. McGowan Jr. 210 Esplanade Way Palm Beach, FL 33480 Private Investor	john@mcgowangrp.com 561-444-2375 (h) 610-585-2701 (w)	08/2022 03/2022	4/2023 (Term 0) 07/2022 (less than 6 months)
Linda Wartow 2295 S. Ocean Blvd. # 814 Palm Beach, FL 33480 – Business Person	LWartow@aol.com 561-547-3311 617-968-5400 (c)	4/2021 4/2018 2/2018	4/2024 (Term 2)**** 4/2021 (Term 1) 4/2018 (0 less than 1.5 yrs)
Pamela Saba 2760 S Ocean Blvd #412 Palm Beach, FL 33480 – Business Person	adsabenterprise@icloud.com 561-385-3051	4/2022 4/2020	4/2025 (Term 1) 4/2022 (0 less than 1.5 yrs. Filling Mr. Cohens alternate position)
Martin Klein 1060 N Ocean Blvd. Palm Beach, FL 33480 Lawyer	Martinklein@gmail.com 561-881-8000	1/2021	1/2023 (Term1 – Filling Mr. Cohens unexpired regular member position)
Chris Larmoyeux 217 Tangier Ave. Palm Beach, FL 33480 Lawyer	cmi@lb-law.com 561-685-4206	4/2021	4/2024 (Term 1)
ALTERNATES			
Pamela Davies 2275 S Ocean Blvd. #107N Palm Beach, FL 33480	Pdavies1224@gmail.com 703-981-0411	8/2022	5/2025 (Term 1)
Harris Fried 250 Seminole Ave #7 Palm Beach, FL 33480	Harris.Fried@gmail.com 561-596-4559	8/2022	3/2025 (Term 1)

Town of Palm Beach
Application for Service

Resubmitted 12/16/22
Submit Date: Oct 03, 2022
MKC

Profile

Martin I. Klein
First Name Middle Initial Last Name

1060 North Ocean Blvd.
Home Address Suite or Apt

Palm Beach FL 33480
City State Postal Code

martiniklein@gmail.com
Email Address

Home: (561) 881-8000 Mobile: (917) 453-9800
Primary Phone Alternate Phone

Question applies to multiple boards

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

MIK

Question applies to multiple boards

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

Question applies to multiple boards

VERIFIED - KMC

Please upload proof of residency

Which Boards would you like to apply for?

Code Enforcement Board: Submitted

In what area of town do you live?

☒ North

Interests/Experience

RECEIVED
DEC 16 2022
Town Clerk's Office

Question applies to Code Enforcement Board

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

I have served on the Code Enforcement Board multiple times during the past years and i believe i bring a judicious approach to its deliberations. I believe enforcement of our Codes is key to preserving our way of life in Palm Beach. I'd like to help in that regard.

Question applies to Code Enforcement Board

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

All of them.

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

None

Question applies to multiple boards

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

Code Enforcement Board-Current Term. Code Enforcement Board-15 years ago. Planning and Zoning Commission-19 years.

Question applies to Code Enforcement Board

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

Yes as a current member and as a prior member.

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

- ☒ Palm Beach Civic Association
- ☒ Citizens' Association of Palm Beach

Present Occupation

Attorney

No. of years

40 years

Past occupation(s)

No. of years

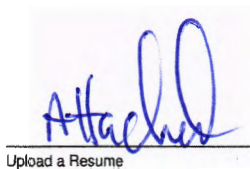
Please provide details regarding your educational background:

Lehigh university Bachelor of Arts 1969 American University Law School JD 1972

Question applies to Landmarks Preservation Commission, Code Enforcement Board

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

☒ Law



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

☐ Yes ☒ No

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

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

☒ I Agree

Question applies to Code Enforcement Board

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

As a lawyer and as a lifelong resident who is familiar with zoning and town codes, I bring experience, history and a sense of judicial temperament to the board.

Question applies to multiple boards

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

☐ Yes ☒ No

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

Diane L. Klein-retired. Michele Levbarg Klein-Executive with the Real Real.

Demographics

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

Ethnicity

☒ Caucasian/Non-Hispanic

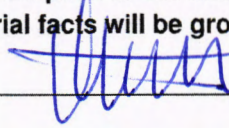
Gender

☒ Male

Physically Disabled

☐ Yes ☒ No

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

 12/16/22

☒ I Agree

Question applies to Code Enforcement Board

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

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

Resubmitted 12/16/22

CODE ENFORCEMENT BOARD

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

MARTIN I. KLEIN

1060 North Ocean Blvd., Palm Beach, Florida 33480 (561) 881-8000 / martin@miklein.com

Senior legal counsel and corporate advisor for global clients, including luxury brands, financial institutions and real estate developers. Provides strategic guidance for a broad range of commercial and civil matters. Expertise in corporate restructuring/reorganization, bankruptcy, real estate development, finance, litigation, employment, discrimination and international law. Widely published and cited globally on bankruptcy matters and creditor's rights. Notable board appointments at public companies, non-profit organizations and municipalities.

EXPERIENCE

Martin I. Klein, PLLC, New York, NY and Palm Beach, FL

Founder/Managing Partner (1995 to present)

- Advise clients, provide proactive strategic legal guidance and manage cases for commercial matters including corporate restructuring/reorganization, bankruptcy, real estate development, finance, litigation, employment, discrimination and international law.
- Work with a broad range of clients, including global real estate developers, leading financial institutions, media and apparel companies and large corporations; collaborate with investment bankers, finance teams and specialized legal counsel.
- Serve as general counsel for the North American business of a leading global luxury apparel company and regularly advise a leading shopping center developer; former general counsel for a global real estate development firm and a NYSE-listed consumer products company; former personal counsel to a leading global financial innovator.
- Represent secured and unsecured creditors, debtors, creditors committees and reorganization trustees in Chapter 7 and 11 cases (and in Chapter X, XI and XII cases under the former Bankruptcy Act); negotiate/draft reorganization and liquidation plans, financings and asset purchases/sales and lead clients through all aspects of bankruptcy court proceedings.
- Regularly contacted and cited by major domestic and international print and broadcast media as noted legal source on bankruptcy matters and creditor's rights.

Shea & Gould, New York, NY

Partner (1993 to 1995)

- Handpicked to lead the bankruptcy department of a former leading global full-service law firm.
- Advised and represented public and private high-profile real estate and financial services clients in a wide range of corporate matters, including bankruptcy, restructuring, debt and equity reorganization and other financial and strategic transactions, governance and shareholder issues.

Dreyer & Traub, New York, NY

Partner (1980 to 1993)

- Established, led and grew the bankruptcy and commercial litigation departments of a leading real estate law firm, significantly increasing revenue.
- Advised high-profile financial, business and real estate clients and served on firm's Management Committee.
- Represented US and European banks in major restructurings (\$100 million+) and notable corporate clients in confidential industry-related investigations, criminal and civil proceedings.

BOARD/APPOINTED POSITIONS

Global Aviation Holdings, Peachtree City, GA

Chairman of the Board (2014 to 2015)

Director (2013 to 2015)

- Recruited to lead an organizational restructuring/recovery initiative and CEO search (on behalf of shareholders), at the largest commercial provider of air transportation for the US Military and a leading provider of commercial passenger charter and air cargo transportation.
- Oversee liquidation of \$75 million in assets and company wind-down (1,000 employees); serve as Chairman of the Compensation Committee and Member of the Audit and Governance Committees.

City of New York, New York, NY*Administrative Law Judge, Environmental Control Board (2007 to 2010)*

- Conducted hearings and adjudicated violations of city and state statutes and ordinances.
- Reviewed and adjudicated appeals of ECB decisions for the Appeal Section.

Central Synagogue, New York, NY*Trustee, Treasurer, Vice President (1987 to 1999)**President (1995 to 1999)*

- Led a major non-profit organization, overseeing business strategy, operations/administration, finance and fundraising for a 7,000-member congregation (one of the largest/oldest in the US).
- Significantly increased congregation membership and enrollment in the early childhood and religious schools; led organization through a \$50 million reconstruction and organizational recovery project following a fire disaster.
- Conducted monthly Board of Trustee meetings and various weekly committee meetings.

Planning and Zoning Commission of The Town of Palm Beach, Palm Beach, FL*Member (1994 to 2002, 2009 to 2014; 2016-2021)**Chairman (1998 to 2000; 2016-2021)*

- Reviewed plans for town residential and commercial projects.
- Analyzed population density, determined short/long-term town planning goals and identified community needs and zoning/development priorities.

Code Enforcement Board of the Town of Palm Beach, Palm Beach, FL*Member (2002-2007; 2020-present)*

- Enforce and adjudicate violations of the Town Code of Ordinances.

Palm Beach County Citizens Committee on Airport Noise, Palm Beach County, FL*Member (2022-present)*

- Review airport traffic conditions for County and consider potential noise and other mitigation.

Palm Beach County Land Development Regulation Advisory Board, Palm Beach, FL*Member (2004 to 2013)*

- Conducted periodic review and updates to the County's Unified Land Development Code and Comprehensive Plan.
- Advised the Board of County Commissioners on land use regulations to protect the health, safety and welfare of the county residents.

Chock Full O'Nuts Corporation (NYSE), New York, NY*Director and Chairman of Audit Committee (1987 to 1994)***Regency Equities Corporation (OTC), Beverly Hills, CA***Director (1978 to 1979)***PUBLICATIONS**

- *Author, The New York State Bar Journal, Philadelphia Law Journal, Florida Bar Journal, Los Angeles Law Journal and Commercial Law Journal (1977 to present)* Widely published in leading law journals on financial, real estate, bankruptcy and commercial law.
- *Member of the Board of Editors, The Florida Bar Journal (1994 to 2013)*
- *Columnist, New York Law Journal (1995 to 2009)* Wrote monthly column on bankruptcy issues.
- *Member of the Board of Editors, The Bankruptcy Strategist (1995 to 2008)*

SELECTED ACADEMIC/SPEAKING ENGAGEMENTS

- *Adjunct Associate Professor of Law, Benjamin Cardozo School of Law of Yeshiva University.*
- *Lecturer, Columbia University School of Law, American Law Institute-American Bar Association Committee on Continuing Education (ALI-ABA), The Practising Law Institute (PLI) and Mathematica.*
- *Presenter, Joint Conference of INSOL International and The European Insolvency Practitioners Association, Florence, Italy (1995).*

SELECTED PROFESSIONAL MEMBERSHIPS

- **American Bar Association**
Chairman, Subcommittee on Bankruptcy Court Litigation
Business Bankruptcy Committee
- **The Florida Bar**
Judicial Evaluation Committee
Board of Editors, Florida Bar Journal
- **The Association of the Bar of New York**
Committee on State Legislation
- **United States District Court, Eastern District of New York**
Panel of Mediators
Panel of Arbitrators
- **United States Bankruptcy Court, Southern District of New York**
Panel of Mediators
- **Civil Court, City of New York**
Small Claims Arbitrator
- **American Arbitration Association**
Panel of Commercial Arbitrators
- **The English Law Society**
- **The Society of Practitioners of Insolvency** (United Kingdom)

LICENSURE

- Bar admission in New York, Florida, District of Columbia and California.
- Solicitor of the Senior Courts of London and Wales (United Kingdom).

ADDITIONAL INFORMATION

- Early legal experience in bankruptcy, real estate, intellectual property and litigation at mid-sized New York law firms.
- *Former Legislative Aide*, **Senator Jacob K. Javits** and the **US Senate Committee on Labor and Public Welfare** (91st and 92nd Congresses); primary staff responsibility for proposed revisions to the Fair Labor Standards Act (Minimum Wage Law Amendments enacted in 1974); instrumental in drafting the Occupational Safety and Health Act (OSHA), the Employment Retirement Income Security Act and various health, education and anti-poverty legislation.
- Conversational French and Italian.

EDUCATION

American University Law School, Washington, DC

Juris Doctor (1972), Awards for excellence in Constitutional Law and Criminal Law

Lehigh University, Bethlehem, PA

Bachelor of Arts, International Relations (1969)

TOWN OF PALM BEACH

Town Council Meeting on: January 10, 2023

Section of Agenda Minutes

Agenda Title
Town Council Meeting Minutes
Pat Gayle-Gordon, Acting Town Clerk

November 15, 2022, Town Council Development Review Meeting Minutes
December 13, 2022, Town Council Meeting Minutes
December 14, 2022, Town Council Development Review Meeting Minutes

Presenter

ATTACHMENTS:

- ▣ **November 15, 2022, Town Council Development Review Meeting Minutes**
- ▣ **December 13, 2022, Town Council Meeting Minutes**
- ▣ **December 14, 2022, Town Council Development Review Meeting Minutes**



TOWN OF PALM BEACH

Minutes of the Development Review
Town Council Meeting
Held on November 15, 2022

I. CALL TO ORDER AND ROLL CALL

The Development Review Town Council Meeting was called to order on November 15, 2022, at 3:00 p.m.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Acting Town Clerk Gayle-Gordon gave the invocation. Council President Council President Zeidman led the Pledge of Allegiance.

III. COMMENTS OF MAYOR DANIELLE H. MOORE

Mayor Moore had no comments at this time.

IV. COMMENTS OF TOWN COUNCIL MEMBERS

Council Member Araskog spoke in support of addressing the issue of derelict boats. She clarified her statements made at the last Town Council meeting about revisiting the declaration of use agreement for the Carriage House. She said she was not in support of revising the agreement; However, if the Council did decide to revisit the issue, she felt the discussion should be pushed to January 2023.

Council President Zeidman provided the schedule for the meeting. She stated that the presentation by Sean Suder on the Code Review would need to be rescheduled due to the evacuation due to the storm. Council President Zeidman recommended a postponement to December due to the upcoming holiday schedule and so that adequate and proper notice

could be provided to the public. The Council provided consensus to postpone the presentation to one of the Town Council meetings in December.

V. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

Michael Pucillo, 224 Dunbar Road, Co-Chair of Palm Beach Civic Association's Water Committee, expressed support for the Town Council to continue discussions on researching desalinization or filtration options for the south end around Phipps Ocean Park. He suggested Council consider another potential option, specifically a smaller facility being built at Phipps Ocean Park for potable water. Discussion ensued regarding bringing the item back to Town Council in December. The Town Council provided consensus for the discussion of a desalinization plant on the west side of A1A to be included with the water feasibility study item in December.

VI. APPROVAL OF AGENDA

Director of Planning, Zoning and Building Wayne Bergman read the following requested modifications:

Addition of 1485 Via Manana – Permit Extension Request

Withdrawal of ZON-22-017, 1237 N. Lake Way

Deferral of ZON-22-021, 160 Seaview Avenue to the December 14, 2022 meeting

Deferral of ZON-22-088, 240 Oleander Avenue to the December 14, 2022 meeting

Deferral of ZON-22-113, 380 S. County Rd. to the December 14, 2022 meeting

Deferral of ZON-22-123, 218 Phipps Plaza to the January 11, 2022 meeting

Deferral of ZON-22-139, 144 Chilean Avenue to the December 14, 2022 meeting

Deferral of ZON-22-140, 248 Colonial Lane to the January 11, 2022 meeting

Motion made by Council Member Crampton and seconded by Council Member Araskog to approve the agenda as amended. Motion carried unanimously, 5-0.

VII. DISCUSSION ITEMS

Acting Town Clerk Gayle-Gordon administered the oath of office at this time and throughout the meeting when appropriate.

A. **Declaration of Use Agreements**

1. **ZON-22-070 (COA-22-026) 241 SEAVIEW AVE. (COMBO)**
- MODIFICATION TO DECLARATION OF USE AGREEMENT

Maura Ziska, Attorney representing the Palm Beach Day Academy, provided

details on the amended and restated declaration of use agreement.

Council Member Araskog recommended a stipulation be added to the agreement to address any lighting spillover issues. She wanted the ability for Council to revisit and adjust the agreement if any issues arose. She requested that a definition distinguishing the new West parking lot, as well as a definition of the existing play field, to be included in the agreement for clarification. She expressed concern over allowing the Academy vans to be parked in the new west parking lot; she thought the lot should be used for cars only.

Council Member Crampton inquired if the proposed declaration of use agreement effectively reflected the changes that were approved at the last meeting. Jennifer Hofmeister-Drew, Planner III, provided confirmation that the agreements at the last Town Council meeting were reflected in the newly proposed agreement. Ms. Hofmeister-Drew also indicated that Town Attorney Randolph had reviewed the changes.

Council President Pro Tem Lindsay inquired if the new wall and hedges on the north property line were included in the declaration of use agreement. Ms. Ziska responded and pointed out the section in which they were included. Council President Pro Tem Lindsay asked about the footers and Seagrape hedge to be included with the wall, as this was not included in the declaration of use agreement. She thought the agreement should be more specific when it came to the protections of the Seaspray neighbors.

Ms. Ziska agreed to add the items requested by Council President Pro Tem Lindsay.

Mayor Moore asked if the declaration of use agreement was the appropriate place to include information on hedging material, in the event the material would need to be replaced.

Ms. Hofmeister-Drew provided recommendations on items to include and exclude in the agreement if staff would need to approve material changes in the future. Council President Pro Tem Lindsay thought the species material could be eliminated, if the specific number of hedges and height of the hedges were included.

Mr. Bergman stated that conditions of approval would be included in a development order, referencing a specific landscape plan. Council Pro Tem Lindsay agreed with Mr. Bergman, as long as the landscape plan was explicit about the items included to protect the neighbor's privacy.

Council Member Araskog spoke in support of adding the more specific

language into the declaration of use agreement. She expressed concern over the parking lot being open until 7:00 p.m. She requested that the gate be closed on Saturdays and Sundays, exclusive of the 12 special events.

Council Member Cooney expressed support for the proposed language.

Discussion ensued regarding adding language to restrict the weekends.

Anne Pepper, 333 Seaspray Avenue, expressed concern over the proposed lighting and the gates, specifically their functionality as well as being opened 7 days a week. She asked the Town Council to reconsider the agreement and consider the items that she outlined her letter.

Council Member Araskog requested that the lights be placed on a timer rather than the use of solar power. Council Member Araskog also expressed her objections to the school vans due to their noise.

Council President Pro Tem Zeidman agreed with Ms. Pepper and thought the lights should be placed on a timer, since solar lights would be illuminated at night. A consensus agreed that the lights would be placed on a timer from 7 a.m. to 7 p.m.

Discussion ensued regarding the revisions to be made to the proposed declaration. Town Attorney Randolph recommended that the item be deferred and voted on at the next meeting with the requested changes.

The Council provided direction for revisions to the proposed declaration of use agreement and deferred the item to the December 14, 2022 meeting.

B. Time Extensions and Waivers

1. Time Extension for 172 Worth Ave - Saks Fifth Avenue

Director Bergman provided a brief background on the item.

Barbara Winscoll, representing Saks Fifth Avenue, explained the request for time extension until February 2023. She provided further explanation of the nature of the ongoing work.

Motion made by Council Member Araskog and seconded by Council Member Crampton to grant the extension with the condition that if any verifiable issues from the neighbors are received, Director Wayne Bergman can issue a stop work order.

Council Member Cooney confirmed that the construction vehicles were parking in the garage. Ms. Winscoll provided confirmation and added that all deliveries would be made to the loading area.

Council Member Araskog amended her motion to add no construction or delivery vehicles would be allowed on Worth Avenue. Motion seconded by Council Member Crampton. Motion carried unanimously, 5-0.

2. 1485 Via Manana Permit Extension

Director Bergman provided a brief background on the item.

Chet Davis, Davis General Contracting, explained the need for the time extension request. He further explained the nature of the work and his delays due to COVID.

Council Member Araskog complimented Davis General Contracting for being so responsive to neighbors. She thought neighbors should be notified for time extension requests. She asked for confirmation that the holiday and weekend hours would continue to be followed.

Council President Pro Tem Lindsay spoke in support of Davis General Contracting for their diligence in ensuring their site was left in good condition at the end of the day.

Motion made by Council Member Araskog and seconded by Council Member Crampton to grant the extension until June 2023. Motion carried unanimously, 5-0.

C. Variances, Special Exceptions, and Site Plan Reviews

1. **Old Business**

a. **ZON-22-017 (ARC-22-032) 1237 N LAKE WAY (COMBO) -**

VARIANCES & SITE PLAN REVIEW The applicant, Frank H. Pearl and Geryl T. Pearl, has filed an application requesting Town Council review of and approval of Site Plan Review for the construction of a new two-story residence on a lot with less width than required in the RB district, and including variances (1) to allow a two-story accessory structure on a lot less than 20,000SF in lot area, and (2) to exceed the point of measurement. ARCOM will perform design review of the application. [Architectural Review Commission Recommendation: Implementation for the proposed variance for the second story will cause negative architectural impact to the subject property. Carried 4-3. Implementation for the proposed variance, which addressed the point of measurement, will not cause negative architectural impact to the subject property. Carried 7-0.] [This item has been withdrawn.]

This item was withdrawn at the approval of the agenda.

b. **ZON-22-021 (ARC-22-022) 160 SEAVIEW AVE (COMBO) -**

VARIANCES The applicant, Coral Beach Corporation (Angela Feldman, President) and Seaview Holdings, Inc. (David Feldman, Director), has filed an application requesting Town Council review for variances to exceed the point of measurement elevation higher than allowed to be measured from and to reduce the required street side yard setback for a new guest house on combined parcels at 160 and 170 Seaview Avenue. ARCOM will perform design review of the application. [The Architectural Commission deferred the project to their November 18, 2022, Architectural Commission meeting.] [This item shall be deferred to the December 14, 2022, Town Council meeting pending Architectural Review.]

This item was deferred to the December 14, 2022 meeting at the approval of the agenda.

- c. **ZON-22-088 (ARC-22-126) 240 OLEANDER AVE (COMBO) - VARIANCES** The applicant, PTMJM Florida Investment Properties, LLC (Patricia Lambrecht), has filed an application requesting Town Council review and approval for variances (1) for development on a lot which is deficient in minimum lot area and (2) deficient in lot depth in the RC zoning district and (3) to exceed the maximum allowed lot coverage, in conjunction with the construction of a new two-story single-family residence. The Architectural Commission will perform design review of the application. [The Architectural Review Commission deferred this project to the November 18, 2022 meeting.] [This item shall be deferred to the December 14, 2022, Town Council meeting pending Architectural Review.]

This item was deferred to the December 14, 2022 meeting at the approval of the agenda.

- d. **ZON-22-100 (COA-22-035) 800 S COUNTY RD (COMBO) - SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCES** The applicant, ANN DESRUISSEUAX, has filed an application requesting Town Council review and approval for site plan review for the installation of a generator over 100 kW with associated building, and variances (1) to reduce the required east front yard setback, (2) to reduce the required north side yard setback, (3) to exceed the maximum lot coverage allowed, (4) to decrease the minimum required landscape open space, (5) to place a cooling tower within a required side yard, and (6) to place an 150 kW generator in the required front and side yard. The Landmarks Preservation Commission will perform design review of the application. [Landmarks Preservation Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject landmarked property. Carried 6-0.] [The Landmarks Preservation Commission approved the project at their July 20, 2022 meeting. Carried 6-0.]

Council Member Cooney declared ex parte communications.

Maura Ziska, Attorney for the applicant, provided background information on the item.

Ann DesRuisseaux, Applicant, indicated that an agreement had been reached with the neighbor to the north on the removal and reconstruction of the common site wall between their properties.

Harvey Oyer, Attorney for the neighbor at 790 S. County Rd., stated that they would support the variance requests subject to conditions, which he read into the record.

Bradley Falco, Planner II, provided staff comments.

Motion made by Council Member Crampton and seconded by Council President Pro Tem Lindsay that Site Plan Review and Special Exception ZON-22-100 be approved as said applications meet the criteria set forth in Section 134-229 and Section 134-329 of the Town Code, and finding that approval of the Site Plan will not adversely affect the public interest and that all 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, with the conditions enumerated by the counsel for 790 South County as well as the elimination of the variance for green space/open space. Motion carried unanimously, 5-0.

Motion made by Council Member Crampton and seconded by Council President Pro Tem Lindsay that Variance ZON-22-100 shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201 (A), items 1 through 7 have been met. Motion carried unanimously, 5-0.

- e. **ZON-22-113 (ARC-22-182) 380 S COUNTY RD (COMBO)-SPECIAL EXCEPTION W/ SITE PLAN REVIEW AND VARIANCES** The applicant, Le bar a vin (Ann DesRuisseaux), has filed an application requesting Town Council review and approval for a Special Exception Request with Site Plan Review and including variances (1) to reduce required parking (by 2 spaces), (2) to reduce the street side (south) setback for the proposed ground floor terrace addition, (3) to reduce the required sidewalk clearance width, (4) to reduce the required drive aisle width, (5) to reduce required landscape open space, and (6) to exceed the maximum allowable height for mechanical equipment on a rooftop of an existing two-story building. The applicant is also seeking a Special Exception Request for a restaurant use from an existing bar/lounge. Additionally, the applicant is seeking approval for Special Exception Request with Site Plan Review for outdoor cafe seating (22 seats + 8 outdoor seats previously approved) on private property and a

Special Exception for a restaurant use in conjunction to an existing bar/lounge. The Architectural Commission will perform design review of the application. [Architectural Review Commission Recommendation: Implementation of proposed variance will not cause a negative architectural impact to the subject property. Carried 6-0.] [The Architectural Review Commission approved this project with conditions at the September 28, 2022, meeting. Carried 6-0.] [The Town Council approved the site plan review with respect to the drive aisle shift, and the increase of pace on the first floor for the two bathrooms. The Town Council did not approve the outdoor seating and terrace. Variances 1,4 and 6 were approved. Both motions had a condition related to a utility easement. The special exception and variances 2,3 and 5 were deferred to the November 9, 2022, Town Council Meeting.] [This item shall be deferred to the December 14, 2022, Town Council meeting at the request of the applicant.]

This item was deferred to the December 14, 2022 meeting at the approval of the agenda.

- f. **ZON-22-123 (COA-22-042) 218 PHIPPS PLZ (COMBO)-VARIANCE** The applicant, Bruce Leeds, Trustee of the Bruce Leeds Declaration of Trust, dated May 30, 2007, has filed an application requesting Town Council review and approval for a variance to reduce the required west rear yard setback, in conjunction with the construction of a new two-story accessory structure. The Landmarks Preservation Commission will perform design review of the application. [The Landmarks Preservation Commission approved the main structure change with conditions related to the architecture. Accessory structure changes to be reviewed by the Landmarks Preservation Commission in December 2022.] [This item shall be deferred to the January 11, 2022, Town Council meeting pending Landmarks Preservation approval.]

This item was deferred to the January 11, 2022 meeting at the approval of the agenda.

- g. **ZON-22-131 163-165 SEMINOLE AVE - VARIANCES** The applicant, 2012 Steven H. Rose Irrevocable Trust (Dale Coudert), has filed an application requesting Town Council review and approval for variances (1) to create a new nonconforming east side-yard setback and (2) to create non-conforming landscaped open space at 165 Seminole Ave. Variance (3) is to create a non- conforming west side-yard setback, (4) a variance for non- conforming lot coverage, (5) a variance to create non-conforming landscaped open space, and (6) a variance to create nonconforming angle of vision at 163 Seminole Ave. The variances are required as part of the subdivision of the existing unified property at 163-165 Seminole Avenue into 2 separate lots while

maintaining all existing structures and hardscape.

Council President Pro Tem Lindsay, Council Member Cooney and Mayor Moore declared ex parte communications.

Maura Ziska, Attorney for the applicant, provided background information on the item.

Bradley Falco, Planner II, provided staff comments.

Council Member Cooney expressed appreciation to Ms. Coudert for her willingness to preserve her home.

Motion made by Council Member Cooney and seconded by Council Member Araskog that Variance ZON-22-131 shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201 (A), items 1 through 7 have been met. Motion carried unanimously, 5-0.

The Town Council recessed at 4:29 p.m. and reconvened at 4:39 p.m.

Council President Zeidman indicated that an issue was raised earlier in the meeting concerning the Town's water and possible alternatives, since the Town's contract with West Palm Beach would expire in 2029. She indicated that several of the Council members wanted to discuss the issue of a reverse osmosis plant on the west side of Ocean Boulevard. She further added that this discussion could be held in December.

Discussion ensued regarding whether the Council should hold another discussion on the issue.

There was a consensus of the Council members to place the item on the December Town Council meeting agenda.

- h. **ZON-22-132 (ARC-22-200) 165 BRADLEY PL (COMBO)-SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE.** The applicant, Biltmore Galleria, LLC., has filed an application requesting Town Council review and approval for a Special Exception with Site Plan Review to allow a 3,038 SF private/public school in the Commercial-Town Serving District (C- TS) zoning district and a Variance from the off-street parking requirements to eliminate required surface parking spaces and convert it into a playground area. The application will require amendments to the existing Unity of Title and Declaration of Use. The Architectural Commission will perform the design review of the application. [Architectural Review Commission Recommendation: Implementation of proposed variance will not cause negative architectural impact to the subject property. Carried 5-0.] [The Architectural Review Commission approved this project at the October 25, 2022, meeting. Carried 5-0.]

Mayor Moore, Council President Zeidman, Council President Pro Tem Lindsay, and Council Members Araskog, Crampton, Cooney declared ex parte communications.

Harvey Oyer, Attorney for the Alef Pre-school, provided background information on the application.

Michael Perry, MP Design & Architecture, presented the site plan and provided further information on the project.

Jennifer Hofmeister-Drew, Planner III, provided staff comments.

Council Member Araskog inquired about the ground covering, to which Mr. Perry responded and indicated the covering would be sod. Council Member Araskog wondered if more parking spaces could be added to eliminate one of the variances. Mr. Perry explained that most of playground would be eliminated to provide room for maneuvering cars. Mr. Oyer provided further explanation of the legal hardship for the variance requested.

Council Member Crampton asked for confirmation that the property was ADA compliant. Mr. Oyer provided confirmation. Council Member Crampton asked to understand the relationship between the demand for parking spaces compared to the drop off and pick up times. Mr. Oyer further explained the traffic circulation, parking demands at drop off and pick up times, as well as the process for the traffic circulation plan.

Council President Zeidman confirmed that the asphalt would be removed to install the sod. She asked if this would be an issue since the applicant did not own the property. Ms. Hofmeister-Drew indicated that the Architectural Review Commission approved the project with the condition that the asphalt was removed. Discussion ensued regarding the asphalt removal and the proposed ground covering.

Council Member Araskog expressed concerns for the afternoon hours and peak hours due to heavy traffic in the area. She thought a traffic study that reflected traffic during peak hours would be helpful.

Ms. Hofmeister-Drew and Brian Kelly, Traffic Engineer, provided additional information on the traffic studies and answered the Council members' questions.

Council President Pro Tem Lindsay expressed concern over the existing traffic congestion near the intersection of Bradley Place and Royal Poinciana Way in the afternoon. She indicated the letters of opposition expressed these same concerns. She asked Mr. Kelly to explain the data he presented and if it reflected this congestion in traffic.

Council President Zeidman asked for the professionals to show how the children would be dropped off for the school day. Mr. Perry outlined the two entrances for the parking lot.

Mr. Oyer and Mr. Kelly addressed additional concerns from Council Members on the traffic impacts.

Andrew Speranzini, representing Park Region Condominium Association, outlined various issues relating to the application and project plan that he stated were not in compliance with the Town Code.

Linda Landis, Park Region Condominium, expressed objection with the proposed project due to traffic concerns.

Jamie Stern, Park Region Condominium, expressed objections for the proposed project due to concerns with safety and traffic.

Eric Travis, Biltmore Condominium, expressed objections to the project due to its impacts on traffic.

John Eubanks, representing the Biltmore Condominium Association, outlined various issues relating to the application that he stated were not in compliance with the Town Code.

Rob Allen, Biltmore Condominium, expressed objections to the proposed project due to traffic impacts.

Michael Himmel, Biltmore Condominium, expressed objections to the proposed project due to the extensive traffic on Bradley Place.

Jill Bernstein, Seminole, expressed objections to the proposed project due to the traffic and safety concerns.

Julie Berkowitz, Bradley Place, expressed objections to the proposed project due to traffic concerns.

Patty Dean, Park Avenue, expressed objections for the proposed project due to concerns with safety and traffic.

Julie Herzig-Desnick, Bradley Place, expressed objection to the project due to parking and safety.

Dr. Bob Desnick expressed objections to the project due to safety concerns.

Lisa McGowan, Park Avenue, expressed objections to the traffic impacts for this project.

Ken Moreland, Park Avenue, expressed concerns with the parking and safety. He inquired if the building would be vacant when school was not in session.

Mr. Oyer addressed the concerns raised for the request for the special exception use. He also addressed the traffic and safety concerns raised by public comment speakers.

Jennifer Hofmeister-Drew and Wayne Bergman responded to questions from Council Members regarding the issues raised by public comment speakers on the project's compliance with the Town Code and the traffic study.

Council Member Crampton acknowledged the issue with traffic; however, he restated that the drop off and pick up issues would be occurring in the parking lot and not on the street. He spoke regarding the important service that preschools provided and spoke in support of the proposed project. He also spoke regarding mitigation measures that could be put in place to reduce any negative traffic impacts.

Mayor Moore spoke regarding the building's change of use and the impact on the neighbors. She thought this would be an important detail to be considered by the Town Council.

Council Member Araskog inquired about the unity of title, parking, and the requirement for a playground, to which Ms. Hofmeister-Drew and Mr. Bergman responded. She expressed concern for the project's potential negative impact on the neighbors on Park Avenue and expressed concern over the hardship that was provided. She requested a more specific traffic study to be completed in the area during peak times.

John Eubanks responded to a question from Ms. Araskog regarding a statement made by the applicant, which indicated that they had reached out to meet with the neighboring condominiums. Andrew Speranzini responded that he had not been contacted to meet.

Council President Pro Tem Lindsay expressed concern over the proposed use in this location due to traffic congestion. She inquired if the applicant would allow the condition that would only allow Palm Beach residents to enroll in the school, to which Mr. Oyer responded. Town Attorney Randolph provided a legal opinion regarding whether this condition could be included. She expressed concern over the potential negative impacts to the residents on Park Avenue and stated that she believed that this project would be an intensification of use for this property, although she was in support of a preschool in Town. She spoke in support of receiving the traffic study to get additional information.

Council President Zeidman spoke in support of Council receiving the

traffic study prior to approving the project. She believed this would be an intensification of use of the property but stated that she was supportive of a preschool in Town. She thought it would be important for the Chief of Police to review the project for potential safety issues. She spoke in support of the school having someone watching over the drop off and pick off activities for safety. She also suggested that the parking lot could be made safer with some reconfigurations. She spoke in support of not allowing the use of Park Avenue as an egress from the school, and of a more in-depth traffic study.

Discussion ensued regarding the traffic study that had been completed compared to a more updated study that reflected existing traffic.

Council Member Crampton spoke in support of imposing the condition that the operators of the school submit a traffic management plan to the Town for approval. He expressed support for the proposed project.

Council President Zeidman inquired if there was an additional traffic study that could be completed that would provide additional information about the existing traffic conditions. Mr. Kelly responded and stated that the traffic study provided was an adequate representation of the existing conditions.

Council President Pro Tem Lindsay stated that she would trust staff who indicated that there had been an adequate traffic study for this project. She withdrew her request for additional traffic study. She requested that the applicant and landlord install landscape screening for the neighbors on Park Avenue. She also spoke in support of additional safety precautions being put into place to ensure that parents and children could walk safely into the building.

Motion made by Council Member Crampton and seconded by Council President Pro Tem Lindsay that Site Plan Review and Special Exception ZON-22-132 be approved as said applications meet the criteria set forth in Section 134-229 and Section 134-329 respectively of the Town Code, and finding that approval of the Site Plan will not adversely affect the public interest and that all 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, with the conditions that school management submit a site traffic, parking and pedestrian flow plan to be approved by Town Staff and to not allow the parents to drive down Park Avenue and to require that the applicant return to Town Council in December with the declaration of use and to return to Council after the school year for review. Motion carried, 4-1 with Council Member Araskog dissenting.

Motion made by Council Member Crampton and seconded by Council President Pro Tem Lindsay that Variance ZON-22-132 shall be granted and

find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201 (A), items 1 through 7 have been met. Motion carried, 4-1 with Council Member Araskog dissenting.

The Town Council recessed at 5:35 p.m. and reconvened at 6:15 p.m.

- i. **ZON-22-138 (ARC-22-184) 1540 S OCEAN BLVD. (COMBO) – SPECIAL EXCEPTION W/ SITE PLAN REVIEW** The applicant, 1540 S OCEAN LLC (Steven Kirsch), has filed an application requesting Town Council review and approval for Special Exception and Site Plan Review for the construction of a new two-story guest house connected to a previously approved two-story structure with related landscape and hardscape improvements on a parcel deficient in lot depth. The Architectural Commission will perform the design review of the application. [The Architectural Review Commission approved this project at the October 25, 2022, meeting. Carried 5 -0.]

No one declared ex parte communications.

Maura Ziska, Attorney for the applicant, presented the outlined the zoning requests and presented the project.

Jennifer Hofmeister-Drew, Planner III, provided staff comments.

Motion made by Council Member Araskog and seconded by Council Member Crampton that Site Plan Review and Special Exception ZON-22-138 be approved as said applications meet the criteria set forth in Section 134-229 and Section 134-329 respectively of the Town Code, and finding that approval of the Site Plan will not adversely affect the public interest and that all 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 providing that the property owner did voluntarily commit that prior to the issuance of a building permit to either provide a recorded utility easement or an easement agreement satisfactory to the Town that ensures a recorded easement will be granted, if necessary, to underground utilities in the area. Motion carried unanimously, 5-0.

2. New Business

- a. **ZON-22-104 (ARC-22-146) 9 SLOANS CURVE DR (COMBO) –SPECIAL EXCEPTION WITH SITE PLAN REVIEW** The applicant, Sean Hannity, has filed an application requesting Town Council review and approval for a Special Exception with Site Plan Review for the construction of a 409 square foot second story addition and to install a 20-kw generator for an existing townhouse within an approved Sloan's Curve PUD. The Architectural Commission will perform design review of the application. [The Architectural Review Commission approved this project at the October 26, 2022, meeting.

Carried 6-0.]

No one declared ex parte communications.

Maura Ziska, Attorney for the applicant, outlined the zoning requests and presented the project.

Bradley Falco, Planner II, provided staff comments.

Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay that Site Plan Review and Special Exception ZON-22-104 be approved as said applications meet the criteria set forth in Section 134-229 and Section 134-329 respectively of the Town Code, and finding that approval of the Site Plan will not adversely affect the public interest and that all 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. Motion carried unanimously, 5-0.

- b. **ZON-22-139 (ARC-22-213) 144 CHILEAN AVE (COMBO) - SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCES** The applicant, Allen Perl, as Trustee of the 144 Chilean Trust dated April 13, 2022, has filed an application requesting Town Council review and approval special exception with site plan review for development of a lot nonconforming in lot width in the R-B zoning district in order to construct a new two-story single family residence which requires variances to (1) exceed maximum lot coverage, (2) provide deficient landscaped open space and (3) exceed the maximum cubic content ratio (CCR) allowed. The Architectural Review Commission will perform design review of the application. [The Architectural Review Commission deferred this project to the November 18, 2022 meeting. Carried 7-0.] [This item shall be deferred to the December 14, 2022, Town Council meeting pending review by the Architectural Review Commission.]

This item was deferred to the December 14, 2022 meeting at the approval of the agenda.

- c. **ZON-22-140 (ARC-22-216) 248 COLONIAL LN (COMBO) -SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE** The applicant, 306 Livingston Street Holdings I, LLC (Matthew Mirones), has filed an application requesting Town Council review and approval for a Special Exception with Site Plan Review for development of a lot which is deficient in lot depth and lot area in the R-B zoning district and for variances (1) to eliminate the two-car garage enclosure requirement, (2) to locate a generator in a setback which is higher than allowed from neighboring grade and (3) to not completely screen a generator with a masonry wall, in conjunction with the construction of a new two-story residence. The Architectural Review

Commission will perform design review of the application. [The Architectural Review Commission deferred this project to the December 16, 2022 meeting. Carried 7-0.] [This item shall be deferred to the January 11, 2023, Town Council meeting pending review by the Architectural Review Commission.]

This item was deferred to the January 11, 2022 meeting at the approval of the agenda.

- d. **ZON-22-143 (ARC-22-188) 266 ORANGE GROVE RD (COMBO)-VARIANCE** The applicant, Olofson Jeanne H Trust, has filed an application requesting Town Council review and approval for an after-the-fact variance to maintain landscape open space less than the minimum requirements in the R-B zoning district. The Architectural Commission will perform the design review of the application. [Architectural Review Commission Recommendation: Implementation of proposed variance will not cause negative architectural impact to the subject property.] [The Architectural Review Commission approved this project at the October 26, 2022, meeting. Carried 7-0.]

No one declared ex parte communications.

Adam Mills, Environment Design Group, presented the landscape and hardscape plans for project.

Bradley Falco, Planner II, provided staff comments.

Council Member Araskog asked the professional to explain the hardship for the variance. Mr. Mills outlined the hardship and addressed the need for the variance.

Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay that Variance ZON-22-143 shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201 (A), items 1 through 7 have been met. Motion carried unanimously, 5-0.

- e. **ZON-22-146 (ARC-22-209) 1020 N LAKE WAY (COMBO)-VARIANCE** The applicant, Robert Morse, has filed an application requesting Town Council review and approval for a variance (1) to exceed the maximum allowable lot coverage, in conjunction with the exterior alterations and loggia modifications and enlargement proposed at the property. The Architectural Commission will perform design review of the application. [Architectural Review Commission Recommendation: Implementation of proposed variance will not cause negative architectural impact to the subject property.] [The Architectural Review Commission approved this project at the October 26, 2022, meeting. Carried 7-0.]

No one declared ex parte communications.

Maura Ziska, Attorney for the applicant, outlined the zoning requests and presented the project.

Michael Perry, MP Design & Architecture, presented the architectural plans for the proposed project.

Bradley Falco, Planner II, provided staff comments.

Council Member Cooney stated that he hoped that the pergola issue was addressed in the Code Reform.

Council President Pro Tem Lindsay wondered if a deed restriction restricting covered pergolas should be put in place.

Council Member Araskog wondered about the increase in lot coverage with the new loggia. Mr. Perry explained the reason for the new loggia and discussed the proposed lot coverage.

Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay that Variance ZON-22-146 shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201 (A), items 1 through 7 have been met. Motion carried unanimously, 5-0.

VIII. ORDINANCES

A. Second Reading

1. Proposed Ordinance to Transmit a New Property Rights Comprehensive Plan Element to the State Department of Economic Opportunity (DEO)

ORDINANCE NO. 015-2022 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, amending the Town of Palm Beach Comprehensive Plan by creating a Property Rights Element in order to meet updated statutory requirements; maintaining internal consistency within the comprehensive plan; providing for incorporation of recitals; providing for severability; providing for the repeal of ordinances or parts thereof in conflict; providing for codification; and providing an effective date.

Town Attorney Randolph read the title of the Ordinance.

Motion made by Council Member Araskog and seconded by Council Member Crampton to adopt Ordinance No. 015-2022 on second reading. Motion carried unanimously, 5-0.

IX. ANY OTHER MATTERS

Discussion ensued regarding recommendations on the Code Review. Council Member Cooney expressed concern that some of the recommendations were being discussed prior to

public workshops being held. Council President Zeidman spoke regarding the process for the Code Reform project.

X. ADJOURNMENT

The meeting adjourned at 8:51 p.m. on November 15, 2022 without the benefit of a roll call.

APPROVED:

Margaret A. Zeidman, Town Council President

ATTEST:

Kelly Churney, Deputy Town Clerk

Date: _____



MINUTES OF THE TOWN COUNCIL MEETING HELD ON DECEMBER 13, 2022

I. CALL TO ORDER AND ROLL CALL

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

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Acting Town Clerk Gayle-Gordon gave the Invocation and Chair Zeidman led the Pledge of Allegiance.

III. MODIFICATIONS TO THE AGENDA

The following modifications were made to the agenda:

Item No. X.A.1. Town Council Meeting Minutes November 9, 2022, Town Council Development Review Meeting was deferred to the January 10, 2023 Town Council Meeting.

IV. APPROVAL OF AGENDA

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

V. RECOGNITIONS

A. Recognition of Town of Palm Beach 2022 Employee of the Year *Danielle H. Moore, Mayor*

Mayor Moore recognized Danny Rojas, Warehouse Technician as the Town's 2022 Employee of the Year.

Mayor Moore recognized the following employee milestones: Clifton Anderson (PW) 20 years, Will Campbell (PW) 10 years, Antonio Pataca (PW) 10 years, Christopher Barber (PD) 5 years and Daniel Carreno (FR) 5 years. She also announced the retirement of Thomas Machate (PD) after 22 years of service to the Town.

VI. BOARD AND COMMISSIONS PRESENTATIONS AND APPOINTMENTS

A. Presentations By the Applicants and Appointments to the Shore Protection Board *Pat Gayle-Gordon, Acting Town Clerk*

Presentations were made to the Town Council by the following applicants:

Barbara Altenburg
Melissa Ceriale
Erick Reickert
Joel Zylstra

Motion was made by Council Member Crampton and seconded by Council Member Araskog to approve the appointments of Melissa Ceriale, Erick Reickert and Joel Zylstra as regular members of the Shore Protection Board. On roll call, the Motion passed unanimously.

VII. COMMENTS OF MAYOR DANIELLE H. MOORE

Mayor Moore announced that the Strategic Planning Board will be meeting on December 15, February 9 and March 3. She announced that there will also be focus groups and public input sessions on January 5 and January 11. Mayor Moore expressed appreciation to the Citizens Association and Civic Association for hosting the Town's Employee of the Year Award event.

VIII. COMMENTS OF TOWN COUNCIL MEMBERS

Council President Pro Tem Lindsay stated that Gail Coniglio has applied for the vacant seat on the Port Commission and urged her colleagues and residents to send emails of support for Ms. Coniglio's application.

Council Member Araskog expressed appreciation to Warren and Allison Anders for their generous donation for body armor for the Police Department. She also expressed appreciation for a donation received from the Preservation Foundation.

Council Member Cooney thanked Paul Brazil and the Public Works Department for hosting an event at their facility and expressed appreciation to the Police and Fire Foundation for hosting an event in honor of the Police Department Centennial. He expressed condolences on the passing of John Shuler.

Council President Zeidman spoke regarding messages that she has received regarding the Code Review process and addressed concerns raised by residents, specifically that the 25% FAR was an example, not a suggestion and was illustrated by the consultant along with higher FAR percentages. Secondly, she addressed the percentage of variances given by the Town Council most of which fall into the specific categories: non-conforming lots, di minimus requests, requests for placement of mechanical devices and infill.

IX. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

Denise Budnitz, Palm Beach Towers, expressed concern over a trash receptacle complex that has been installed adjacent to Palm Beach Towers at the Royal Poinciana Plaza due to issues with noise. Council Member Araskog spoke regarding a response that she has received from Alexandra Patterson from the Royal Poinciana Plaza regarding this issue.

Donald Singer, 2229 S. Ocean Boulevard, congratulated the newly elected Mayor and Town Council Members.

X. APPROVAL OF CONSENT AGENDA

The following items were moved from Consent Agenda and heard as follows:

Item No. X.B.1. Resolution No. 148-2022 was heard as part of Item No. XIV.B.3. Phipps Ocean Park Plan Update

Item No. X.B.7. Resolution No. 160-2022 was pulled and heard as item no. XIV.A.1.

Item No. X.C.4. 206 Phipps Plaza Right-of-Way Permit for Scaffolding During Season was pulled and heard at Item No. XIV.A.2.

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

A. MINUTES

1. Town Council Meeting Minutes
Pat Gayle-Gordon, Acting Town Clerk

November 8, 2022, Town Council Meeting
November 9, 2022, Town Council Development Review Meeting
November 15, 2022, Town Council Development Review Meeting -
Deferred to the January 10, 2023, Town Council Meeting
December 9, 2022, Special Town Council Meeting

2. Approval of Major Matters Considered by the Architectural Review Commission at its Meeting of November 18, 2022.
Wayne Bergman, Director of Planning, Zoning and Building

B. RESOLUTIONS

1. RESOLUTION NO. 148-2022 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Award of Pre-Construction Phase Services to Burkhardt Construction Inc. for the Phipps Ocean Park Improvement Project in the Amount of \$106,760.
*Dean Mealy, Procurement and Contract Manager – **Pulled and Heard as part of Item No. XIV.B.3.***

2. RESOLUTION NO. 155-2022 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order to Insight Public Sector for Server Equipment and Supporting Peripherals that Operate the Virtual Computer and Data Storage Environment in the Amount of \$382,769.80 and Establishing a Project Budget of \$421,047.
Dean Mealy, Procurement and Contract Manager
3. RESOLUTION NO. 156-2022 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Award of ITB No. 2023-03, Aluminum Compactor Transfer Trailer to Spector Manufacturing Inc. in the Amount of \$171,076 and Establishing a Project Budget of \$179,629.
Dean Mealy, Procurement and Contract Manager
4. RESOLUTION NO. 157-2022 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Award of Regions Security Services, Inc. in the Amount of \$133,000 for the Remainder of FY23 for the Town Marina and Establishing a Three-Year Contract Award Amount of \$526,308 based on Satisfactory Performance, Mutual Agreement and Budget Authorization.
Dean Mealy, Procurement and Contract Manager
5. RESOLUTION NO. 158-2022 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Award of RFP No. 2022-22, Worth Avenue Living Wall Maintenance Program to GSky Plant Systems, Inc. in the Annual Amount of \$36,000 and a Proposed Five-Year Award of \$180,000 Contingent Upon Satisfactory Performance, Mutual Agreement and Budget Authorization.
Dean Mealy, Procurement and Contract Manager
6. RESOLUTION NO. 159-2022 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Sovereignty Submerged Lands Fee Waived Lease Renewal No. 500026426.
Carolyn Stone, Deputy Town Manager
7. RESOLUTION NO. 160-2022 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Change Order to Resolution No. 091-2019, Landscaping Services to Batallan Enterprises Inc. DBA Property Works for Newly Acquired Services in FY23 in the Amount of \$324,405.90 for FY23 and FY24 for a Total Revised Authorization of \$2,223,865.90 Contingent Upon Satisfactory Service, Mutual Agreement and Budget Authorization.
*Dean Mealy, Procurement and Contract Manager – **Pulled and Heard as Item No. XIV.A.1.***

C. OTHER

1. Donation Acceptance - PBP&FF (*Palm Beach Police and Fire Foundation*)
Nicholas Caristo, Chief of Police
2. Request for Approval of Payment under Town's Supplemental Life Insurance Program - Valerie Tonge
Gillian Barth, Director of People & Culture
3. Public Employees Relations Commission 2022 Reappointments
Gillian Barth, Director of People & Culture
4. 206 Phipps Plaza Right-of-Way Permit for Scaffolding During Season
*H. Paul Brazil, P.E., Director of Public Works – **Pulled and Heard as Item No. XIV.A.2.***
5. Waiver to Town Code for Extended Construction Hours and Road Closure for Ranger Construction to Construction Drainage and Roadway Improvements on Via Palma
H. Paul Brazil, P.E., Director of Public Works
6. Preservation of Dune Plantings Along Mid-Town Seawall
H. Paul Brazil, P.E., Director of Public Works
7. 2000 S Ocean Blvd – Parking Adjacent to Rights-of-Way
H. Paul Brazil, P.E., Director of Public Works
8. 217 Mockingbird Trail, Large Bismarck Palm Tree Replacement
H. Paul Brazil, P.E., Director of Public Works
9. 218 Debra Lane, Fire Hydrant Relocation, Sewer Lateral Replacement, and Gas Service
H. Paul Brazil, P.E., Director of Public Works

XI. BOARD/COMMISSION ANNUAL REPORT

- A. Shore Protection Board Annual Report
Melissa Ceriale, Chair

Melissa Ceriale, Chair of the Shore Protection Board, presented the Annual Report.

Council President Pro Tem inquired about the work that the Shore Protection Board has been doing on the signage for sea turtle awareness, to which Ms. Ceriale responded.

Council Member Crampton inquired about using offshore sand for future beach renourishment, to which Director of Public Works, Paul Brazil, responded.

Council Member Araskog spoke in support of the Board including a video regarding the Lake side and Ms. Ceriale spoke regarding the education being done with the videos.

In response to a question from Council President Zeidman, Ms. Ceriale spoke regarding the videos.

Motion was made by Council Member Crampton and seconded by Council Member Araskog to accept the Annual Report of the Shore Protection Board. On roll call, the Motion passed unanimously.

XII. COMMITTEE REPORTS

- A. Report of the Business and Administrative Committee Meeting Held on October 27, 2022
Lew Crampton, Chair

Council Member Lew Crampton, Chair of the Business and Administrative Committee presented the report of the meeting held on October 27, 2022 and made the following recommendations, which were accepted by the Town Council:

1. Implement paid parking from Harmon to Wells (except for the permit parking areas);
2. Utilize ParkMobile for paid parking;
3. Intersperse 30-minute free parking spots throughout the paid parking district;
4. Investigate valet locations on Worth Avenue and North County Road;
5. Provide incentives for residents to park for a lower cost than non-residents;
6. Incorporate the traffic and parking data that is being collected as part of the Corradino Group study; and
7. Integrate the permitted program into the proposed paid parking districts.

Mr. Crampton outlined the goals for the parking program. Council President Pro Tem provided additional background on the proposed program. Mayor Moore addressed the origins of the discussions on a paid program parking.

Council Member Cooney spoke in support of the proposed program but expressed concern that there will continue to be issues that arise that will need to be addressed.

Council Member Araskog expressed concern that many of the Town's residents do not use technology and stated that she would like to see more 30-minute free parking spaces.

Council Member Crampton spoke regarding a signage plan that will also be brought to Town Council for approval.

Council President Zeidman congratulated the Committee Members and Mayor Moore on their diligent work on this program.

Motion was made by Council Member Crampton and seconded by Council Member Cooney to accept the report of the Business and Administrative Committee meeting held on October 27, 2022 and the seven (7) recommendations regarding parking. On roll call, the Motion passed 4-1 with Council Member Araskog dissenting.

A break was taken at 11:15 a.m.

This matter was heard out of order at 5:07 p.m.

XIII. PUBLIC HEARINGS

- A. RESOLUTION NO. 162-2022 A Resolution of The Town Council of the Town of Palm Beach, Palm Beach County, Florida, Vacating And Abandoning Portions of an Existing Public Utility Easements Within the Property Commonly Known as 1265 South Ocean Boulevard, in The Town of Palm Beach, Florida.
H. Paul Brazil, P.E., Director of Public Works

Patricia Strayer, Town Engineer, read the title of the resolution and provided a brief background on the item.

Council President Zeidman called for public comment; no one indicated a desire to speak.

Motion was made by Council Member Araskog and seconded by Council Member Cooney to approve Resolution No. 162-2022. On roll call, the Motion passed unanimously.

XIV. REGULAR AGENDA

The Matters Pulled from Consent Agenda were heard at 5:23 p.m., out of order of the agenda:

- A. Matters Pulled From Consent Agenda: If needed
1. RESOLUTION NO. 160-2022 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Change Order to Resolution No. 091-2019, Landscaping Services to Batallan Enterprises Inc. DBA Property Works for Newly Acquired Services in FY23 in the Amount of \$324,405.90 for FY23 and FY24 for a Total Revised Authorization of \$2,223,865.90 Contingent Upon Satisfactory Service, Mutual Agreement and Budget Authorization.
Dean Mealy, Procurement and Contract Manager

Director of Public Works Brazil provided information in response to questions from Council Member Araskog.

Motion was made by Council Member Araskog and seconded by Council Member Cooney to approve Resolution No. 160-2022. On roll call, the Motion passed unanimously.

2. 206 Phipps Plaza Right-of-Way Permit for Scaffolding During Season
H. Paul Brazil, P.E., Director of Public Works

Director Brazil provided information on the item in response to a question from Council Member Cooney.

Tommy Morrison, owner, 206 Phipps Plaza, provided an update on the construction project and additional information on the request.

Motion was made by Council Member Cooney and seconded by Council President Pro Tem Lindsay to approve the Right-of-Way permit for scaffolding during season at 206 Phipps Plaza. On roll call, the Motion passed unanimously.

B. Old Business

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

Patricia Strayer answered a question from Ms. Araskog regarding a resident who has called regarding an easement agreement.

The Town Council Meeting reconvened at 11:25 a.m. and the following item was heard:

2. Water Feasibility Study Update
TIME CERTAIN: 11:00 AM
H. Paul Brazil, P.E., Director of Public Works

Jason Lee, Kimley Horn & Associates presented the options that Council had requested to be studied further. He provided a cost analysis for each option and discussed the timeline and operational complexity of the options. John Potts provided additional information in response to Council Members' questions. Mr. Lee presented proposed pipeline improvements for the City of Lake Worth Beach option. Discussion ensued on the impact of the proposed project in certain areas of Town over a period of several years.

Council Member Crampton spoke regarding the length of the regulatory process for the federal government to provide regulations on “forever chemicals” and spoke regarding the option that the Town could continue to renew its agreement with the City of West Palm Beach until that process is complete.

Mr. Lee provided information on the option of the desalination plant on the west side of A1A across the street from Phipps Park.

Council President Zeidman spoke regarding the amount of information that has been presented and spoke in support of holding a workshop in January to further discuss the options.

Council Member Araskog spoke in opposition to the desalination plant option. Discussion ensued on the desalination option.

Mr. Potts provided information on the regulation of public water utilities in response to questions by Council President Zeidman. Discussion ensued regarding the cyanotoxin contamination and the issue of not being noticed of the contamination. Ms. Zeidman spoke regarding the Town Council wanting to provide the cleanest water possible to its residents. Council President Zeidman requested the Council make a decision about the desalination plant on the west side of A1A across from Phipps Park. The Council spoke in support of discontinuing the study of the desalination option because of its impact to the residential neighborhood specifically that the utility plant would require approximately 500 plus linear feet divided on both sides of the entrance to Ibis Isle; that construction would take a minimum of 4 years and would require installation of large diameter pipes on the majority of the north/south streets. The open cut construction would last for several years resulting in rerouting of traffic to West Palm Beach during construction and finally the cost.

Motion was made by Council President Pro Tem Lindsay and seconded by Council Member Araskog to discontinue the option of constructing a desalination plant at Phipps Ocean Park and to arrange a workshop to be held in January 2023 regarding the West Palm Beach and Lake Worth Beach options. On roll call, the Motion passed unanimously.

Council President Zeidman requested along with Councilman Crampton that the Finance Committee meet to review the financial impacts of each alternative. Mr. Crampton asked that Mr. Miracle be included in the presentation. Town Council provided consensus to refer the discussion of the two remaining options to the Finance and Taxation Committee prior to the workshop.

The Town Council recessed for lunch at 12:40 p.m. and reconvened at 2:20 p.m.

3. Phipps Ocean Park Plan Update
Carolyn Stone, Deputy Town Manager
Amanda Skier, President and CEO, Preservation Foundation of Palm Beach
TIIME CERTAIN: 2:15 PM

- A. ZON-22-107 (COA-22-037) 2185 S OCEAN BLVD—PHIPPS PARK (COMBO)—SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCES The applicant, the Town of Palm Beach, has filed an application requesting Town Council review and approval for a Special Exception with Site Plan Review for modifications to an existing 20.6-acre Municipally Owned and Operated Park and Recreation Center (Phipps Ocean Park) including modifications to the parking lot and pedestrian ways, the relocation of the existing Little Red Schoolhouse, the construction of sports courts, restroom facilities, beach pavilions and an educational facility including variances to exceed the maximum building height in the R-B zoning district and variances to reduce the minimum required Ocean Bulkhead Line setback requirement for new structures. Landmarks Preservation Commission will perform design review of the application.

Carolyn Stone, Deputy Town Manager, provided a brief background on the item and introduced Amanda Skier, Preservation Foundation. Ms. Skier introduced Raymond Jungles, Landscape Architect and Guy Champin, Project Manager, who presented the landscape design for the park. Richard Sammons, Architect, presented the site plan and Scott Collinson presented the project plans for proposed buildings to be constructed. Harvey Oyer explained the variances that would be required for this project. Council Member Araskog inquired about the hardship, to which Mr. Oyer responded.

Council President Zeidman explained the process for the approval of the proposed project.

Council Member Araskog expressed concern over the potential maintenance costs and the agreement with the Preservation Foundation. Town Manager Blouin spoke regarding the potential maintenance costs and the process for the approval of the agreement.

Acting Town Clerk Gayle-Gordon administered the oath of office at this time.

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

Council Member Araskog expressed concern over confusion from residents about what the item on the agenda entails. She expressed concern over certain elements of the site plan. Mr. Oyer spoke regarding issues with the project being delayed if Council would vote to defer the item. Ms. Skier addressed Ms. Araskog's concern over the pickleball courts.

Council President Zeidman clarified what the agenda item entails and confirmed that the item was properly noticed. Town Council provided consensus to continue hearing the item at this time.

Director of Planning, Zoning & Building, Wayne Bergman, provided staff comments.

Council President Zeidman called for public comment. The following individuals spoke on the item:

Carla Horwitz, The Reef, expressed concern that the landscape buffer between the proposed project and the Reef was no longer 30 feet and expressed concern over the placement of the pickleball courts. She requested that the Preservation Foundation present the alternative plan that the Landmarks Preservation Commission requested the Preservation Foundation to complete.

Ellyn S. Bogdanoff, representing 2100 Condominium, spoke in support of being provided a copy of the agreement with the Foundation as soon as possible in order to ensure that the residents' concerns are being addressed.

Peter Wilson, The Reef, expressed concern over the installation of pickleball courts.

Mr. Oyer spoke regarding the pickleball courts. Discussion ensued regarding the pickleball courts and whether or not the Town Council would be considering approval at this time. Mr. Champin presented the alternative plans for the landscape buffer and the pickleball courts.

Council Member Crampton spoke in opposition to the installation of pickleball courts as part of this project.

Sherry Crist, The Reef, spoke regarding the noise from pickleball courts being an issue nationwide and expressed concern over the installation of pickleball courts at this location.

Lawrence Kaplan, Ibis Isle, spoke regarding the importance of the rules and regulations being delineated and enforced. He spoke in support of the project moving forward quickly in order to mitigate impacts to nearby residents.

Steve Tannenbaum, 2100 Ocean Blvd, President of the 2100 Board, spoke regarding a letter sent that outlined concerns, including the width and height of the buffer between 2100 and the proposed project. He expressed concern over safety and spoke regarding the importance of the rules and regulations being enforced.

Alfred “Skip” Aldrich, 2295 S. Ocean Blvd., on behalf of the Citizen’s Association, spoke regarding letters sent by the Citizen’s Association in support of the project, but stated that there are concerns over the installation of pickleball courts. He spoke in support of the approval of the site plan and the project construction commencing as soon as possible.

Council Member Cooney expressed appreciation to the Preservation Foundation for this project and spoke in support of the proposed project. He spoke regarding the pickleball courts and stated that he would be supportive of continuing the discussion on pickleball. He spoke in support of option 3 presented today pertaining to the hedge and the proposed pickleball courts. He suggested that with 20 acres of park land there may be better options for locating the pickleball courts so that residents are not disturbed by the bouncing of the pickleball.

Council President Pro Tem Lindsay spoke in support of the proposed project and spoke in support of deferring the approval of the pickleball courts at this time and continuing the discussion of installing pickleball courts. She spoke in support of option 3.

Council Member Araskog spoke in opposition to the installation of pickleball courts at this location due to the noise. She spoke in support of option 3 without the pickleball courts. She raised additional items pertaining to safety.

Council Member Crampton spoke in support of the proposed project and spoke regarding residents’ support of the project. He expressed concern over the pickleball courts being installed at this location because the project is a passive and educational park. He spoke in support of taking out the pickleball courts and adding back greenspace.

Council President Zeidman inquired about the gymnasium being used for pickleball, to which Ms. Stone responded.

Motion was made by Council Member Cooney and seconded by Council President Pro Tem Lindsay that Variance ZON-22-107 shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201 (A), items 1 through 7 have been met. On roll call, the Motion passed unanimously.

Motion was made by Council Member Cooney and seconded by Council Member Crampton that Site Plan Review and Special Exception ZON-22-107 be approved as said applications meet the criteria set forth in Section 134-229 and Section 134-329 of the Town Code, and finding that approval of the Site Plan will not adversely affect the public interest and that all 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, as amended with the direction to defer the decision on pickleball court to the February 14, 2023, Town Council Meeting. On roll call, the Motion passed unanimously.

RESOLUTION NO. 148-2022 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Award of Pre-Construction Phase Services to Burkhardt Construction Inc. for the Phipps Ocean Park Improvement Project in the Amount of \$106,760.

*Dean Mealy, Procurement and Contract Manager – **Pulled from Consent Agenda***

Motion was made by Council Member Cooney and seconded by Council Member Crampton to approve Resolution No. 148-2022. On roll call, the Motion passed unanimously.

A break was taken at 4:38 pm. and reconvened at 4:47 p.m. The following item was heard:

4. Evaluation of Impacts to Right-of-Way Due to Revised Plans for “Palm Beach Transportation Planning Agency Recommended Improvements for South Ocean Boulevard (A1A) Between Lake Avenue to Ibis Way to the Florida Department of Transportation”

TIME CERTAIN: 3:30 PM

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

Jason Debrincat, Senior Project Engineer, provided a brief background on the item and introduced Brett Whitfield, Chen Moore & Associates, who presented the proposed improvements for the FDOT project. He answered questions by the Mayor and Council Members. Mr. Blouin stated that the

action for this item is to authorize the Mayor to send a letter to the Governor regarding the Town's opposition to the proposed project.

The following residents spoke regarding the improvements to the roadway:

Ronald Matzner, 2130 S. Ocean Boulevard
Lawrence Kaplan, 2299 Ibis Isle Road

The Town Council provided consensus to authorize Mayor Moore to draft a letter to Governor DeSantis in opposition to the proposed FDOT project.

C. New Business

The following item was heard at 5:54 p.m., out of order of the agenda:

1. Consideration of Waivers to Town Code for Construction Dates, Hours, and Noise for Staging in the Lake Worth Lagoon and Construction of the 2023 Palm Beach Harbor Inlet Maintenance Dredging Project
H. Paul Brazil, P.E., Director of Public Works

Director Brazil provided background information on the item.

Motion was made by Council Member Crampton and seconded by Council President Pro Tem Lindsay to approve the waiver and begin dredging in the Lake Worth Lagoon. On roll call, the Motion passed unanimously.

The following item was heard at 5:31 p.m., out of order of the agenda:

2. Discussion Regarding Overtime Policy for Public Safety
Nicholas Caristo, Chief of Police and Darrel Donatto, Fire Rescue Chief

Prior to unionization and collective bargaining impasse in January of 2012 police officers and firefighters were paid overtime for additional hours worked beyond their normal work schedule consistent with other Town employees and the local marketplace. Police officers and firefighters are routinely required to cancel days off and work mandatory overtime to meet operational needs for which they are compensated straight time for additional hours worked. A recent market survey conducted of police and fire departments in Palm Beach County confirmed that all pay overtime for additional hours worked beyond their normal pay period. A policy change would make PBPD and PBFR more competitive, improve employee morale and will help getting employees to work on a voluntary versus mandatory basis.

Motion was made by Council Member Cooney and seconded by Council Member Crampton to approve the revised overtime policy for public safety as

presented by the Town Manager. On roll call, the Motion passed unanimously.

The following item was heard at 5:14 p.m., out of order of the agenda:

3. Kevin Morine vs. TOPB Special Magistrate's Report
Gillian Barth, Director of People & Culture

Town Attorney Randolph provided background information on this item.

Motion was made by Council Member Cooney and seconded by Council President Pro Tem Lindsay to reject the Special Magistrate's decision and uphold the termination. On roll call, the Motion passed unanimously.

4. Review of a Stop Work Order Due to the Three Strike Rule at 232 Tradewinds Drive
Wayne Bergman, Director of Planning, Zoning and Building

Director Bergman provided background information on the violations.

Lloyd Ecclestone III, Vero Beach, explained the third strike violation and stated that the individual that caused the third strike is no longer with his company.

Motion was made by Council Member Cooney and seconded by Council President Lindsay to lift the Stop Work Order, waive the third strike and issue right-of-way permit(s) subject to all fines being paid. On roll call, the Motion passed unanimously.

5. Review of a Stop Work Order Due to the Three Strike Rule at 333 Sunset Avenue
Wayne Bergman, Director of Planning, Zoning and Building

Director Bergman provided background information on the violations. Fire Marshall Marty DeLoach provided additional information on the project's fire code violations.

Mayor Moore spoke with regard to ensuring that the Fire Marshall provides his approval prior to the stop work order being lifted.

Council Member Araskog expressed concern over the seriousness of the violations.

Motion was made by Council Member Araskog and seconded by Council Member Cooney to lift the Stop Work Order conditional on Fire Rescue deeming property is safe for work to begin, waive the third strike and issue

right-of-way permit(s) subject to all fines being paid. On roll call, the Motion passed unanimously.

Jeff Hardin, owner of Straticon, expressed remorse for the violations and explained the work that his company is doing to ensure that the issues are addressed.

XV. ANY OTHER MATTERS

Council Member Araskog requested that matters concerning demolition work be added to the January Town Council Meeting agenda. Her request was accepted by the Town Council.

XVI. ADJOURNMENT

The Town Council Meeting of Tuesday, December 13, 2022 was adjourned at 6:00 PM, without benefit of a Motion.

APPROVED:

Margaret A. Zeidman, Town Council President

ATTEST:

Pat Gayle-Gordon, Acting Town Clerk

Date



TOWN OF PALM BEACH

Minutes of the Development Review
Town Council Meeting
Held on December 14, 2022

I. CALL TO ORDER AND ROLL CALL

The Development Review Town Council Meeting was called to order December 14, 2022 at 9:46 a.m. On roll call, all elected officials were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

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

III. COMMENTS OF MAYOR DANIELLE H. MOORE

Mayor Moore thanked the Council for the discussion at the regular meeting regarding the Preservation Foundation project at Phipps Ocean Park.

Mayor Moore expressed concern that the Landmarks Program has been expanded too quickly and that some of the proposed homes do not seem to be worthy of the designation.

Mayor Moore thanked the Palm Beach Civic Association for their holiday party.

Council President Zeidman recommended adding an item to discuss the Landmarks Program on a future agenda. There was consensus to place the item on an upcoming Tuesday Town Council meeting agenda.

IV. COMMENTS OF TOWN COUNCIL MEMBERS

Council Member Lindsay wished everyone a nice holiday season and a peaceful new year.

Council Member Araskog wished everyone a peaceful holiday season. She expressed concern that certain contractors were not following the construction rules and spoke in support of increasing enforcement in order to ensure contractors were in compliance.

Council Member Crampton expressed concern for traffic around Mar-a-Lago. He requested that staff work with the Coast Guard to restrict the bridge openings around rush hour. Council President Zeidman stated that Town Manager Blouin had been working with the Coast Guard and West Palm Beach to restrict the openings during rush hour.

Council President Zeidman thanked Mayor Moore for the holiday lunch she hosted on Tuesday. She also thanked Wayne Bergman for providing donuts during meeting days. Council President Zeidman reviewed the schedule for the day. She spoke regarding the Code Review process that was occurring and addressed concerns that she had received from residents.

V. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

No one indicated a desire to speak.

VI. APPROVAL OF AGENDA

Director of Planning, Zoning and Building Wayne Bergman read the following requested modifications:

Set Time Certain for Code Review at 11:30 a.m.

Deferral of ZON-22-021, 160 Seaview Avenue to the January 11, 2023 meeting

Deferral of ZON-22-088, 240 Oleander Avenue to the January 11, 2023 meeting

Withdrawal of ZON-22-113, 380 S. County Rd.

Deferral of ZON-22-123, 218 Phipps Plaza to the January 11, 2023 meeting

Deferral of ZON-22-140, 248 Colonial Lane to the January 11, 2023 meeting

Withdrawal of ZON-22-105, 150 Seminole Avenue

Deferral of ZON-22-122, 141 Australian Avenue to the January 11, 2023 meeting

Deferral of ZON-22-151, 760 N. Ocean Blvd. to the January 11, 2023 meeting

Motion made by Council Member Araskog and seconded by Council Member Crampton to approve the agenda as amended. Motion carried unanimously, 5-0.

VII. CODE REVIEW

A. Code Review Update

TIME CERTAIN - 11:30 A.M.

Sean Suder, Zone Co.

Sean Suder, ZoneCo., introduced the members of the consultant team, who were present at the meeting. He provided background information on the project and explained the goals for the project and the code review process. He provided the timeline for the public engagement process and announced the dates for the project kickoff meeting and the first charrettes.

Joe Nickol, Yard & Co., provided background information on Yard & Co. and their role in the code review process. He provided additional information on the public engagement process and presented the new website for the project. He provided information on what would be discussed and presented at the project kickoff meeting and the week of design workshops (charrettes) that would occur after the initial meeting.

Council Member Cooney expressed appreciation to the team for being present. He spoke in support of the outline for the future public engagement sessions and recommended that the dates of the charrettes be published as soon as possible to allow for ample public notice. He spoke in support of the interactive map as described on the new website. He inquired about where the charrettes would be held.

Jennifer Hofmeister-Drew, Planner III, discussed potential locations that staff had researched for the charrettes. Discussion ensued on potential locations. Ms. Hofmeister-Drew stated the goal was to find and publish the location prior to the Christmas holiday.

Council Member Crampton expressed concern over previous charrettes that did not yield results. Mr. Nickol spoke regarding the process including researching what had occurred in the past to ensure the effectiveness of these charrettes.

Mayor Moore expressed appreciation to the team for being present at the meeting. She hoped that the direction that had been presented would comfort the community.

Mayor Moore asked how the team engage community members that were normally not engaged. Mr. Nickol spoke regarding the online tools that would provide an easy way for the community to be involved. He stated that the harder part of the engagement would be getting the community to attend the charrettes.

Council President Pro Tem Lindsay expressed concern over members of the public who may disrupt the process as has been done in the past. Mr. Nickol explained the method by which the charrettes have been designed to address this concern. Mr. Suder stated that the Town Council's commitment would help to engage some of the skeptical citizens.

Council Member Araskog expressed concern that many of the residents may not be technically savvy. She spoke regarding the importance of reaching out to these residents in alternate ways. She spoke regarding the challenges that the team may encounter with some of the members of the community.

Council Member Cooney agreed with Mayor Moore's comments about engaging the community that may seem unengaged due to various reasons. He spoke regarding residents who could be challenging.

Council President Pro Tem Lindsay inquired if the charrettes could be accessible online so that residents could listen if they chose not to attend in person. Mr. Nickol discussed their plans to live cast the charrettes and explained how residents could participate virtually.

Mayor Moore indicated that the Town Council Members had individual email lists and spoke regarding the potential for them to be shared with the consultants to be used to distribute information about the upcoming engagement sessions.

Council President Zeidman discussed ways that the Council Members could assist in informing residents on the upcoming charrettes. She spoke regarding the confrontational nature of some of the comments from residents towards the consultants. She recommended setting expectations for the residents, such as speaking times. She spoke in favor of the use of a valet, as well as holding a session in the south end of the island. She suggested that the team contact Mary Robosson at the Palm Beach Civic Association, as well as Skip Aldridge at the Citizens Association. She cautioned the team against using the term "brand." She spoke in support of the new website.

Council Member Crampton stated that any criticism of the process or review should be targeted at the Town Council, not at the consultants.

Council Member Araskog expressed concern with the members of the public using the term "naysayer." She stated that everyone had an opinion and should be heard.

Mr. Suder spoke in support of the process up to this point and spoke regarding

understanding the community.

Nicki McDonald, Planning and Zoning Member, inquired about the makeup of the engagement sessions. She recommended holding some of the sessions in the evening to allow working residents to attend. She stated that she felt that it was also important for Council President Zeidman or Mayor Moore to introduce these sessions so that residents would see that the Town Council was fully engaged in the review of the Code.

Mr. Nickol spoke in support of the suggestion for having one of the Town Council Members open the sessions. Mr. Nickol further explained the proposed schedule of the engagement session and discussed how the times could be rearranged.

Mayor Moore spoke regarding the importance of taking the residents' varied schedules into consideration when planning the sessions. She spoke in support of a variety of time options being offered. Council President Zeidman spoke in support of Mayor Moore introducing the sessions.

Council Member Araskog recommended looking at the social calendar when planning the sessions, as well.

There was no action taken on this item.

Please note: A lunch break was taken at 1:09 p.m. The meeting reconvened at 2:02 p.m.

Kirk Blouin, Town Manager, relayed his discussions with the Coast Guard regarding limiting the openings of the bridges during rush hour traffic. He indicated that staff had been gathering data and stated that he would soon be asking the Coast Guard to limit the openings for 2 hours in the morning and afternoon. He discussed a collaboration with the City of West Palm Beach and Palm Beach County on the traffic issue, as well. He stated that he had been speaking to the Police Department about addressing the traffic around Mar-a-Lago, in particular.

Council President Zeidman spoke regarding the traffic around Bradley Place. She recommended a study of Sunset Avenue, and the possibly of reverting it back to a one-way street. Mr. Blouin spoke regarding the background of Sunset Avenue when it was changed to a one-way, and then when it changed back. He indicated that staff was continuing to study the issue and felt it would eventually be changed back to a one-way street.

Council Member Crampton suggested publicizing the studies that had been undertaken so that the residents can see that the Town was addressing the issue. Mr. Blouin stated that staff would be presenting this information at the February Town Council meeting.

Council President Pro Tem Lindsay discussed the traffic backup that occurs on

Bradley Place, especially when the bridge is raised. Mr. Blouin spoke regarding the Town contracting with a traffic engineer, who was working on a solution.

Council Member Cooney thanked Mr. Blouin for the update.

Mr. Blouin stated that once the Southern bridge construction work was completed, there should be some relief as well.

Council Member Araskog wondered if it was possible for the Coast Guard to install cameras so that they could review the number of times the bridge was unnecessarily raised. Mr. Blouin stated he could make the request.

Please note: At this time, the Town Council moved to hear ZON-22-070, 241 Seaview Avenue Declaration of Use Agreement.

VIII. DISCUSSION ITEMS

A. Discussion Regarding Approving Demolitions Prior to Redevelopment Plans Being Reviewed and/or Approved

Wayne Bergman, Director of Planning, Zoning and Building, provided background information on the item and explained that the Architectural Review Commission (ARCOM) members requested that this item be presented to Town Council.

In response to a question by Council Member Araskog, Town Attorney Randolph addressed any potential concerns over Bert Harris claims and spoke regarding House Bill 423 in relation to this item.

Council Member Crampton expressed concern about the process and stated that he felt that one of the ARCOM members should present this item to Town Council. He also expressed concern over the issue of property rights.

Council President Zeidman recommended placing the item on a future agenda for discussion after receiving additional information.

Council Member Cooney provided a brief history on this issue and stated that he could assist Director Bergman with providing additional examples and obtaining data for a future discussion.

Council President Pro Tem Lindsay spoke regarding the restricted demolition period that was in place.

There was a consensus of Town Council to place this item on a future agenda so that further research could be done and an ARCOM member could be present to discuss the issue.

Mr. Bergman addressed two additional items that had been approved by ARCOM, one pertaining to demolitions and the other pertaining to story poles and explained potential conflicts with the items. He stated that he and Town Attorney Randolph would be returning to ARCOM discuss the issues with the items.

B. Discussion Regarding Limiting the Number of Restaurants Based on Location and Area

Julie Araskog, Town Council Member

Council Member Araskog indicated that staff needed more time to research the issue and recommended placing it on the January agenda.

Council Member Crampton spoke regarding the importance of this issue being discussed and spoke regarding the traffic and parking study that needed to occur prior to the item being discussed.

Council President Zeidman inquired about the parking study being completed by the Corradino Group. Mr. Crampton explained the scope of the study. James Murphy, Assistant Director of Planning, Zoning and Building, provided further information and stated that the study would relate to retail in the commercial districts as part of the Code Review as well.

Director Bergman stated that the study would be presented by Joe Corradino at the January Town Council meeting.

Council President Pro Tem Lindsay requested that the Town Council be provided a copy of the study prior to the meeting.

Council Member Cooney spoke regarding ensuring that the study was utilized. He spoke regarding the importance of businesses ensuring that their employees were parking in the appropriate spaces.

Council President Zeidman spoke in support of this item being discussed and of the parking study being completed.

Council Member Araskog stated that she would like the Council to hold a discussion regardless of whether the staff was able to gather the information from other municipalities. Discussion ensued regarding the timing of the item returning for discussion.

Deputy Town Clerk Churney administered the oath of office at this time and throughout the meeting when appropriate.

IX. RESOLUTIONS

- A. Resolution No. 149-2022 A Resolution Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Ratifying And Confirming The Determination Of The Landmarks Preservation Commission That The Property Known As **144 Everglade Ave** Meets The Criteria Set Forth In Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach; And Designating Said Property As A Town Of Palm Beach Landmark Pursuant To Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach.

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

Janet Murphy, MurphyStillings, presented background information on the project and historical information on the property. She outlined how the property met Criteria 1, 2 and 3 for Landmark Designation.

Council President Zeidman requested confirmation of proof of publication. Deputy Town Clerk Churney provided confirmation.

Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay that the designation report be made part of the record. Motion carried unanimously, 5-0.

Council President Zeidman called for public comment. There were no comments heard at this time.

Council Member Cooney stated that he was delighted that the owner supported the designation. He requested that in future designations, the minutes reflect whether the owner supported or opposed the designation. He emphasized the importance of doing so due to new requirements from House Bill 423. Deputy Town Clerk Churney indicated that she would ensure that the minutes would reflect this in the future designations.

Council President Pro Tem Lindsay thanked the owner for volunteering her home for designation.

Motion made by Council Member Araskog and seconded by Council Member Araskog and seconded by Council Member Cooney to adopt Resolution 149-2022, designating the property at 144 Everglade Avenue as a landmark of the Town of Palm Beach, on the basis that it meets criteria Numbers 1, 2 and 3 of Section 54-161 of the Town of Palm Beach Code and in the Landmarks Preservation Ordinance No. 2-84, and that the owner supported the designation. Motion carried unanimously, 5-0.

- B. Resolution No. 150-2022 A Resolution Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Ratifying And Confirming The Determination

Of The Landmarks Preservation Commission That The Property Known As **127 Kings Rd** Meets The Criteria Set Forth In Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach; And Designating Said Property As A Town Of Palm Beach Landmark Pursuant To Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach.

Council President Zeidman requested confirmation of proof of publication. Deputy Town Clerk Churney provided confirmation.

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

Emily Stillings, MurphyStillings, presented background information on the project and historical information on the property. She outlined how the property met Criteria 1, 3 and 4 for Landmark Designation.

Council Member Araskog asked if the owner was supportive of the designation. Ms. Stillings stated the owner objected to the designation.

Motion made by Council Member Cooney and seconded by Council Member Araskog that the designation report be made part of the record. Motion carried unanimously, 5-0.

Mayor Moore asked how many of the portions of the existing home had been landmarked, to which Ms. Stillings responded.

Council Member Cooney spoke regarding the importance of ensuring that there was information on the owner's objection included in the backup and minutes. He spoke in support of the designation even with the owner's objection.

Council President Pro Tem Lindsay spoke in support of the designation.

Council President Zeidman called for public comment. There were no comments heard at this time.

Council Member Crampton spoke in support of the designation, despite the owner's objection, due to the unique nature and history of the property.

Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay to adopt Resolution 150-2022, designating the property at 127 Kings Road as a landmark of the Town of Palm Beach, on the basis that it meets criteria Numbers 1, 3 and 4 of Section 54-161 of the Town of Palm Beach Code and in the Landmarks Preservation Ordinance No. 2-84, with the acknowledgement that the owner objected to the designation. Motion carried unanimously, 5-0.

- C. Resolution No. 151-2022 A Resolution Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Ratifying And Confirming The Determination Of The Landmarks Preservation Commission That The Property Known As **1510 N Ocean Blvd** Meets The Criteria Set Forth In Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach; And Designating Said Property As A Town Of Palm Beach Landmark Pursuant To Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach.

Council President Zeidman requested confirmation of proof of publication. Deputy Town Clerk Churney provided confirmation.

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

Janet Murphy, MurphyStillings, presented background information on the project and historical information on the property. She outlined how the property met Criteria 1, 3 and 4 for Landmark Designation.

Motion made by Council Member Crampton and seconded by Council President Pro Tem Lindsay that the designation report be made part of the record. Motion carried unanimously, 5-0.

Council President Zeidman called for public comment.

James Gavigan, owner, expressed his objections to the proposed designation. He asked the Town Council to deny the request.

John Gavigan, 220 Australian Avenue, expressed objections to the designation of 1510 N. Ocean Boulevard. He reviewed each of the criteria indicated for designation and provided rebuttal arguments to each.

Valerie Gavigan, owner, expressed her objections and stated that she believed that her fundamental rights had been taken.

Anne Pepper, 333 Seaspray Avenue, spoke in support of the designation of this home.

Council President Pro Tem Lindsay spoke regarding the history of the home and acknowledged the structural issues with the home. She recommended a historically significant building designation for the home rather than the landmarks designation.

Council Member Cooney expressed concern over designating landmarks over owner's objection. He spoke regarding the positive aspects of the landmarks program but stated he did not support the designation for this home.

Council Member Crampton spoke in opposition to the landmark designation for this home. He stated that he thought the home was pleasant, but not exceptional. He stated that due to the owners' objection, the home should be held at a higher standard.

Mayor Moore stated that she agreed that the home was not remarkable. She indicated if it was in another area in Town, she may feel differently. She spoke regarding the condition of the home.

Council Member Araskog inquired about Town Council Members considering the designation in relation to the criteria and not considering the support or opposition of the owner. Town Attorney Randolph responded. Council Member Araskog stated that she believed that the home was very charming and met several of the criteria.

Council President Zeidman stated that she did not believe that the home was worthy of landmark designation. She spoke regarding the landmarking process.

Motion made by Council Member and seconded by Council to deny the landmark ratification of 1510 N Ocean Boulevard. Motion carried 4-1, with Council Member Araskog dissenting.

Please note: A short break was taken at 11:35 a.m. The meeting resumed at 11:46 a.m. At this time, the Council moved to Item VII. Code Review with Sean Suder.

- D. Resolution No. 152-2022 A Resolution Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Ratifying And Confirming The Determination Of The Landmarks Preservation Commission That The Property Known As **345 Polmer Park Rd** Meets The Criteria Set Forth In Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach; And Designating Said Property As A Town Of Palm Beach Landmark Pursuant To Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach.

Council President Zeidman requested confirmation of proof of publication. Deputy Town Clerk Churney provided confirmation.

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

Janet Murphy, MurphyStillings, presented background information on the project and historical information on the property. She outlined how the property met Criteria 1, 3 and 4 for Landmark Designation.

Motion made by Council Member Araskog and seconded by Council President Pro Tem

Lindsay that the designation report be made part of the record. Motion carried unanimously, 5-0.

Council President Zeidman called for public comment. There were no comments heard at this time.

Motion made by Council Member Cooney and seconded by Council Member Araskog to adopt Resolution 152-2022, designating the property at 345 Polmer Park Road as a landmark of the Town of Palm Beach, on the basis that it meets criteria Number 1, 3 and 4 of Section 54-161 of the Town of Palm Beach Code and in the Landmarks Preservation Ordinance No. 2-84, with the acknowledgement that the owner objected to the designation. Motion carried unanimously, 5-0.

X. DEVELOPMENT REVIEWS

A. **Declaration of Use Agreements**

1. **ZON-22-070 (COA-22-026) 241 SEAVIEW AVE**

A. Modification to Declaration of Use Agreement

Maura Ziska, attorney for the applicant, stated that she sent the revised declaration of use agreement to staff and Town Attorney Randolph. She reviewed the changes to the declaration of use agreement.

Council Member Araskog spoke in support of not allowing the parking lot to be lit on holidays, weekends, and during the summer, except for the 12 special events. She spoke in support of including notification to the neighbors of all special events. Director Bergman answered a question from Council Member Araskog regarding the wall and drainage. Council Member Araskog spoke in support of allowing only regular white vans in the lot and not allowing any vans with advertising. Ms. Ziska stated that only the school's vans use the lots.

Mayor Moore spoke in support of the changes to the declaration of use agreement and confirmed with Ms. Ziska about the height and impact of the lights on the neighbors. She spoke in support of the school sending their calendar to the neighbors to provide notice about the special events throughout the year.

Anne Pepper, 333 Seaspray Avenue, spoke in support of not allowing the parking lot to be lit on weekends, holidays, and summer months. She also spoke in support of the parking lot only being open from 7:00 a.m. to 6:00 p.m.

Council President Pro Tem Lindsay stated that the school should take the "green" initiative to turn off the lights when the school is not open. She spoke in support of the lot not being lit on weekends, holidays and during the summer months.

Ms. Pepper spoke in support of the declaration of use specifically designating the lot to be used for staff and faculty only.

Mayor Moore expressed concern about enforcement of parking for faculty and staff only. Ms. Ziska provided clarification of the language that was included in the agreement.

James Green, attorney representing the neighbors on Seaspray adjacent to the school's greenspace, showed the Town Council photographs of vehicles parked in the greenspace on December 12, 2022. He spoke in support of the lighting being limited in terms of time and days.

Council Member Araskog spoke in support of a restriction on construction or landscaping trucks in the parking lot.

Ms. Ziska stated that she could add a condition that the lot would be lit only when the school was open.

Council Member Araskog stated that she believed that a notification to the neighbors on Seaspray Avenue and Seaview Avenue for all special events should be a condition of approval. Discussion ensued regarding if this item could be added to the declaration of use agreement at this time.

Motion made by Council Member Crampton and seconded by Council Member Araskog to approve the declaration of use agreement with the following conditions to be added: the parking lot lights will be off when the school is not open, the signage for the parking lot will say that the lot is reserved for PBDA staff and guests, and the Palm Beach Day Academy will send the school calendar and will notify all special events of the school to the school's abutting neighbors. Motion carried unanimously, 5-0.

2. ZON-22-132 (ARC-22-200) 165 BRADLEY PL

A. Modification to Declaration of Use Agreement & Unity of Title

B. Consideration of Site Traffic, Parking, and Pedestrian Flow Plan

Harvey Oyer, attorney for the applicant, reviewed the conditions outlined in the proposed declaration of use agreement.

Council Member Cooney spoke in support of including a more specific delineation for the staggered drop-off times. Mr. Oyer stated that his client agreed to break up the drop-off groups into three (3), 30-minute segments. Council Member Cooney spoke in support of adding a condition that there

shall not be a drop-off line.

Council President Zeidman asked how the school would enforce the condition that Park Avenue shall not be used by the students' parents. Mr. Oyer discussed how the school would notify their families and ensure that this was followed.

Council President Pro Tem Lindsay asked about how the hedges to protect the neighbors on Park Avenue would be maintained. Ms. Hofmeister-Drew stated the hedges were reflected in the landscape plan.

Michael Perry, MP Design & Architecture, indicated the hedge was proposed at 6 feet on the north side of the property. The Town Council provided consensus for a condition to be added to the declaration of use to install and maintain the hedge at 9 feet on the north side.

Council President Pro Tem Lindsay expressed concern over egress traffic on Park Avenue. She spoke regarding the percentages of students and the hours of when they would be picked up. She expressed concern over the traffic in the area later in the afternoon.

Mr. Oyer spoke regarding the school returning to Council in June to ensure that these conditions were working effectively. He agreed with the percentage of 40% of the students being picked up at 12:45 p.m.

Council Member Araskog spoke in support of adding language that all children must be dropped off in the parking lot. She also spoke in support of limiting special events to 12 per year. In response to a question by Council Member Araskog regarding teacher parking, Mr. Oyer outlined the parking details. Council Member Araskog requested that the parking condition be included in the agreement. Ms. Hoffmeister-Drew provided additional confirmation that there would be no queueing of cars dropping off or picking up students. Council Member Araskog inquired about injunctive or statutory relief in the event of consistent violations, to which Mr. Oyer responded.

Mayor Moore spoke regarding an email sent to Town Council with photographs that depicted that the parking lot was already full. Attorney Oyer discussed who was currently parking there and confirmed that this would not be an issue once the school is open.

Council Member Crampton reminded the Council that Attorney Oyer would be back in June to review the specifics of the school. Council Member Crampton asked if the school would be enforcing parking in the designated parking spots. Attorney Oyer discussed how the school planned to monitor the parking.

Town Attorney Randolph pointed out a typographical error in the agreement that indicated an infraction of \$200 and stated that it that should state \$2,000 per violation. Attorney Oyer agreed.

Council President Zeidman asked if there would be after school hours. Mr. Oyer stated that the school day would end at 3:30 p.m.

In response to a question by Council President Pro Tem Lindsay, Mr. Oyer outlined the parking for the employees of the school. Council President Pro Tem Lindsay asked for the inclusion of a non-assignability clause in the agreement. Discussion ensued regarding the requested language to be included for the non-assignability clause.

Council President Zeidman called for public comment.

Andrew Speranzini, attorney representing Parc Regent Condominium at 184 Bradley Place, reiterated his objections that were outlined at the November 15, 2022 Town Council meeting.

Pat McGowan, 251 Park Avenue, expressed his objections to the project.

Catherine Stewart, 253 Park Avenue, expressed her objections to the project.

Lisa McGowan, 251 Park Avenue, asked about the maximum occupancy of the school and asked legal questions about the agreement.

Michael Perry, MP Design & Architecture, spoke regarding the approved school occupancy.

Town Attorney Randolph provided clarification on the language for the non-assignability clause.

Patty Dean, Park Avenue, expressed her objections to the project and stated that she thought the preschool could be relocated to a better site in the Town.

Council President Zeidman clarified the criteria for the town-serving requirement. She spoke regarding the potential uses for the zoning of this property and addressed the process for consideration. She stated that Mr. Bergman provided documentation that showed that the building could allow 145 occupants per the Florida Building Code.

Council Member Araskog spoke in opposition to the application and expressed concern that a preschool was not appropriate for this location.

Mr. McGowan spoke in support of the roster of children being 75%, if not 100%, Town residents.

Mr. Oyer stated that he would be supportive of adding more landscaping to protect Mrs. Dean's property. Mr. Oyer also stated that he offered to meet with the residents on Park Avenue, but the residents declined the offer.

Discussion ensued on whether the town serving requirement could be revisited.

Council President Pro Tem spoke regarding the possibility of including a site wall to mitigate noise. Mr. Perry discussed the landscaping on the east side of the lot and stated that more landscaping could be added if desired by the Council. Mayor Moore spoke regarding the site plan already being approved.

Mr. Oyer outlined the changes to the declaration of use agreement that had been discussed.

Mrs. Dean spoke regarding the type of hedge that she would desire. Mr. Perry displayed the site plan to show a fence that would be closing off portions of the property to prevent pedestrians from cutting through the property.

Mark Miller, Park Avenue, expressed concern over pedestrians accessing his property. Mr. Perry discussed the proposed fence and possible hedges that could be planted between the properties.

Council President Pro Tem Lindsay asked Town Attorney Randolph to explain the requirement of a special exception. Mr. Randolph provided information on the requirements for special exceptions and variances.

Motion made by Council Member Crampton and seconded by Council Member Cooney to approve the declaration of use agreement with the following modifications to be approved by Staff: (2A) Drop-off occurs over a 90 minute period from 7:45 am to 9:15 am evenly divided into 3 segments of 30 minutes each, (3) Addition of a minimum of 40% of the students shall be picked up no later than 12:45 pm, (8/9) The proposed artificial turf on the playground is not approved and the asphalt shall be removed and replaced with grass, (11) No drop off line or queuing is permitted, (12) Faculty cannot park in the designated parent drop off/pick up spaces, a new hedge to be installed at and maintained at 9 feet on park avenue, a Clusia hedge will be planted along the east property line at 9 feet and maintained at 15 feet while leaving the existing areca palms, (13) A maximum of 8 school related events per year is permitted, (14) No assignment by the applicant, (15) A statement prohibiting the use of park avenue will be included in the parent handbook and a separate contract with this condition will be signed by parents, and the violation fee will be corrected to reflect

\$2000.00 per violation. Motion carried 4-1, with Council Member Araskog dissenting.

Please note: The Council took a short break at 4:28 p.m. and reconvened at 4:39 p.m.

B. Time Extensions and Waivers

1. Waiver of Town Code Section, 18-237, for Building Permit Extension at 247 Miraflores Drive

Director Bergman provided a brief background on the item.

Kelly Wright, Woolems Luxury Builders, spoke regarding delays with materials that the company had experienced, which led to the delays in construction.

Motion made by Council Member Crampton and seconded by Council President Pro Tem Lindsay to approve the time extension as requested. Motion carried unanimously, 5-0.

1. **Old Business**

- a. **ZON-22-021 (ARC-22-022) 160 SEAVIEW AVE (COMBO) – VARIANCES** The applicant, Coral Beach Corporation (Angela Feldman, President) and Seaview Holdings, Inc. (David Feldman, Director), has filed an application requesting Town Council review for variances to exceed the point of measurement elevation higher than allowed to be measured from and to reduce the required street side yard setback for a new guest house on combined parcels at 160 and 170 Seaview Avenue. ARCOM will perform design review of the application. *[The Architectural Commission deferred the project to their December 16, 2022, Architectural Commission meeting.] [This item shall be deferred to the January 11, 2023, Town Council meeting pending Architectural Review.]*

This item was deferred to the January 11, 2023 meeting at the approval of the agenda.

- (2) **ZON-22-088 (ARC-22-126) 240 OLEANDER AVE (COMBO) – VARIANCES** The applicant, PTMJM Florida Investment Properties, LLC (Patricia Lambrecht), has filed an application requesting Town Council review and approval for variances (1) for development on a lot which is deficient in minimum lot area and (2) deficient in lot depth in the RC zoning district and (3) to exceed the maximum allowed lot coverage, in conjunction with the construction of a new two-story single-family residence. *The Architectural Commission will perform design review of the application. [The Architectural Review Commission deferred this project to the January 25, 2023 meeting.] [This item shall be deferred to*

the January 11, 2023, Town Council meeting pending Architectural Review.]

This item was deferred to the January 11, 2023 meeting at the approval of the agenda.

- c. **ZON-22-113 (ARC-22-182) 380 S COUNTY RD (COMBO)—SPECIAL EXCEPTION W/ SITE PLAN REVIEW AND VARIANCES** The applicant, Le bar a vin (Ann DesRuisseaux), has filed an application requesting Town Council review and approval for a Special Exception Request with Site Plan Review and including variances (1) to reduce required parking (by 2 spaces), (2) to reduce the street side (south) setback for the proposed ground floor terrace addition, (3) to reduce the required sidewalk clearance width, (4) to reduce the required drive aisle width, (5) to reduce required landscape open space, and (6) to exceed the maximum allowable height for mechanical equipment on a rooftop of an existing two-story building. The applicant is also seeking a Special Exception Request for a restaurant use from an existing bar/lounge. Additionally, the applicant is seeking approval for Special Exception Request with Site Plan Review for outdoor café seating (22 seats + 8 outdoor seats previously approved) on private property and a Special Exception for a restaurant use in conjunction to an existing bar/lounge. The Architectural Commission will perform design review of the application. *[Architectural Review Commission Recommendation: Implementation of proposed variance will not cause a negative architectural impact to the subject property. Carried 6-0.] [The Architectural Review Commission approved this project with conditions at the September 28, 2022, meeting. Carried 6-0.] [The Town Council approved the site plan review with respect to the drive aisle shift, and the increase of pace on the first floor for the two bathrooms.] [This item has been withdrawn at the request of the applicant.]*

This item was withdrawn at the approval of the agenda.

- d. **ZON-22-123 (COA-22-042) 218 PHIPPS PLZ (COMBO)—VARIANCE** The applicant, Bruce Leeds, Trustee of the Bruce Leeds Declaration of Trust, dated May 30, 2007, has filed an application requesting Town Council review and approval for a variance to reduce the required west rear yard setback, in conjunction with the construction of a new two-story accessory structure. The Landmarks Preservation Commission will perform design review of the application. *[The Landmarks Preservation Commission approved the main structure change with conditions related to the architecture. Accessory structure changes to be reviewed by the Landmarks Preservation Commission in December 2022.] [This item shall be deferred to the January 11, 2022, Town Council meeting pending Landmarks Preservation approval.]*

This item was deferred to the January 11, 2023 meeting at the approval of the agenda.

- e. **ZON-22-139 (ARC-22-213) 144 CHILEAN AVE (COMBO) – SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCES** The applicant, Allen Perl, as Trustee of the 144 Chilean Trust dated April 13, 2022, has filed an application requesting Town Council review and approval special exception with site plan review for development of a lot nonconforming in lot width in the R-B zoning district in order to construct a new two- story single family residence which requires variances to (1) exceed maximum lot coverage, (2) provide deficient landscaped open space and (3) exceed the maximum cubic content ratio (CCR) allowed. The Architectural Review Commission will perform design review of the application. [The Architectural Review Commission deferred this project to the November 18, 2022 meeting. Carried 7-0.] *[The Architectural Review Commission approved the project as presented. Carried 7- 0.] [Architectural Review Commission Recommendation: Implementation of proposed variance will not cause a negative architectural impact to the subject property. Carried 7-0.]*

Council Member Cooney declared ex parte communications.

Maura Ziska, Attorney for the owners, indicated that two of the variances had been eliminated. She outlined the zoning requests for the application.

Chris Libinski, Fairfax & Sammons Architects, presented the architectural plans for the new residence.

James Murphy, Assistant Director of Planning, Zoning and Building, provided staff comments on the project.

Council President Zeidman called for public comments. No one indicated a desire to speak.

Council Member Cooney spoke in support of the project. He stated that he was pleased to see the professional work with the design to eliminate two of the variances. Council Member Cooney inquired about the loggia that was presented at the ARCOM meeting. Ms. Ziska stated that they would prefer to include the loggia but removed it to reduce the variance. Discussion ensued about whether the loggia could be added back onto the home. Mr. Bergman stated that staff could approve the change if the Council wanted to add the element back onto the home.

Ms. Ziska provided the hardship at the request of Council Member Araskog.

Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay that Variance ZON-22-139 shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201 (A), items 1 through 7 have been met; and providing that the property owner did voluntarily commit that prior to the issuance of a building permit to either provide a recorded utility easement or an easement agreement satisfactory to the Town that ensures a recorded easement will be granted, if necessary, to underground utilities in the area; that the lot coverage and CCR provide for the re-inclusion of the poolside loggia. Motion carried unanimously, 5-0.

Motion made by Council Member Cooney and seconded by Council Member Araskog that Site Plan Review and Special Exception ZON-22-139 be approved as said applications meet the criteria set forth in Section 134-229 and Section 134-329 respectively of the Town Code, and finding that approval of the Site Plan will not adversely affect the public interest and that all 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. Motion carried unanimously, 5-0.

- f. **ZON-22-140 (ARC-22-216) 248 COLONIAL LN (COMBO) – SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE** The applicant, 306 Livingston Street Holdings I, LLC (Matthew Mirones), has filed an application requesting Town Council review and approval for a Special Exception with Site Plan Review for development of a lot which is deficient in lot depth and lot area in the R-B zoning district and for variances (1) to eliminate the two-car garage enclosure requirement, (2) to locate a generator in a setback which is higher than allowed from neighboring grade and (3) to not completely screen a generator with a masonry wall, in conjunction with the construction of a new two-story residence. The Architectural Review Commission will perform design review of the application. *[The Architectural Review Commission deferred this project to the December 16, 2022 meeting. Carried 7-0.] [This item shall be deferred to the January 11, 2023, Town Council meeting pending review by the Architectural Review Commission.]*

This item was deferred to the January 11, 2023 meeting at the approval of the agenda.

- g. **ZON-22-105 (ARC-22-148) 150 SEMINOLE AVE (COMBO)** The applicant, James Lansing and Haviva D. Langenauer, as Trustee of the Haviva D. Langenauer Trust u/a/d/8/10/92, has filed an application requesting Architectural Commission review and approval for a demolition and redesign of the southern portion of the existing two-story residence, a redesign of all facades, the construction of an approximately

680 SF addition to the second story, and new pool, and new hardscape and landscape, requiring variances to maintain existing nonconforming setbacks with more than 50% demolition of a nonconforming structure as part of a renovation. Town Council will review the variance portion of the application. *[The applicant has withdrawn this application.]*

This item was withdrawn at the approval of the agenda.

2. New Business

- a. **ZON-22-122 (HSB-22-011) 141 AUSTRALIAN AVE (COMBO)—VARIANCES** The applicant, Gregory James Pamel, has filed an application requesting Town Council review and approval for Variances to (1) reduce the required side (east) yard setback, (2) to reduce the required rear (north) yard setback, (3) to exceed the overall building height for an accessory structure, and (4) to exceed the maximum Cubic Content Ratio (CCR), and (5) to allow a two story accessory structure where only one story is permitted, for the demolition and reconstruction of a two-story accessory structure in the rear yard in conjunction with the proposed renovations to an existing Historically Significant two-story building. The Landmarks Preservation Commission will perform design review of the application. *[This item shall be deferred to the January 11, 2023, Town Council meeting pending review by the Landmarks Preservation Commission.]*

This item was deferred to the January 11, 2023 meeting at the approval of the agenda.

- b. **ZON-22-136 (COA-22-050) 200 REGENTS PARK RD (COMBO)—VARIANCES** The applicant, 200 REGENTS PARK ROAD TIC-I, LLC And 200 REGENTS PARK ROAD TIC-II, LLC I, has filed an application requesting Town Council review and approval for variances (1) to exceed the maximum amount of fill allowed in required yards, (2) a variance to retain an existing nonconforming front yard setback at an elevated height, (3) a variance to retain an existing nonconforming side yard setback at an elevated height, and (4) a variance to retain an existing nonconforming angle of vision at an elevated height, in conjunction to the raising of an existing two-story Landmarked structure and site. Landmarks Preservation Commission will perform the design review. *[Landmarks Preservation Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impacts to the subject landmarked property. Carried 7-0.] [The Landmarks Preservation Commission approved this project at their November 16, 2022, meeting. Carried 7-0.]*

Ex parte communications were declared by Council Member Cooney and Council Member Araskog.

Maura Ziska, Attorney for the owners, outlined the zoning requests for the application.

Michael Perry, MP Design & Architecture, presented the architectural modifications proposed for the existing, landmarked home.

Ms. Hofmeister-Drew provided staff comments on the project.

Council President Zeidman called for public comments. No one indicated a desire to speak.

Council Member Cooney spoke in support of the application and thanked the homeowner for making the renovations.

Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay that Variance ZON-22-136 shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201 (A), items 1 through 7 have been met. Motion carried unanimously, 5-0.

Council Member Araskog asked about the hardship for the variance application. Ms. Ziska responded and provided the hardship.

c. **ZON-22-145 (ARC-22-211) 375 S OCEAN BLVD—MID TOWN SEAWALL (COMBO). SITE PLAN REVIEW AND VARIANCE**

The applicant, the Town of Palm Beach (Public Works Department), has filed an application requesting Town Council review and approval for Site Plan Review for construction of a new 2,715 linear feet Mid-Town seawall along South Ocean Boulevard from south of Gulfstream Road to north of Royal Palm Way and for a variance (1) to construct a new seawall 2,715 linear feet directly adjacent but varying 42” to 78” eastward of the existing beach wall and east of the Town of Palm Beach’s Bulkhead Line. The Architectural Commission will perform design review of the application. *[The Architectural Review Commission Recommended: Implementation of the proposed variances will not cause negative architectural impact to the subject property. Carried 7-0.]* *[The Architectural Review Commission approved this project with the following conditions: the slope of the wall will be restudied to mitigate drainage and the terrace egress will be restudied, with both elements returning to the Commission. Carried 7-0.]*

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

Paul Brazil, Director of Public Works, provided an overview of the application. He indicated two items that would be returning to ARCOM for their consideration at a future date.

M. Mark Marsh, Bridges, Marsh & Associates, provided additional details on the application.

Guillermo Vasquez, Bridges, Marsh & Associates, presented the architectural modifications proposed for the existing seawall and the clock tower and explained new seawall sections to be built.

Ms. Hofmeister-Drew provided staff comments on the project. Mr. Bergman added that staff received Florida Department of Environmental Protection (FDEP) approval for the project.

Council Member Cooney inquired if there could be objects added to the downslope of the wall to deter loitering. Mr. Marsh stated that he could increase the pitch of the slope to prevent loitering. Council Member Cooney asked Mr. Brazil if a camera could be added to the new terrace on the backside of the clock tower. Mr. Brazil provided confirmation. Mr. Marsh spoke regarding the flow of the terrace.

Council Member Crampton inquired about the budget for the new seawall and if it could help project the new seawall for the lake side. Mr. Brazil stated that the proposed wall was meant to deal with wave action, whereas the west side would need to address sea level rise.

Mayor Moore spoke in support of the proposed project and the addition of a camera on the terrace, per Council Member Cooney's recommendation.

Council Member Araskog inquired if the vista would still be viewable from a car. Mr. Vasquez responded and discussed the change in height and provided reasons for the increase in height.

Mr. Brazil discussed how the new seawall would provide protection for resiliency.

Council President Pro Tem Lindsay spoke in support of the proposed project. She wondered if some of the plain gates could be changed to prevent people from jumping over the gates to access the beach at night.

Council President Zeidman spoke in support of the proposed project.

Council President Zeidman called for public comments. No one indicated a desire to speak.

Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay that Variance ZON-22-145 shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201 (A), items 1 through 7 have been met.

Council Member Araskog asked about the hardship for the variance application. Mr. Brazil provided the hardship.

Motion carried unanimously, 5-0.

Motion made by Council Member Cooney and seconded by Council Member Araskog that Site Plan Review ZON-22-145 be approved based upon the finding that approval of the Site Plan will not adversely affect the public interest and that all 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. Motion carried unanimously, 5-0.

- d. **ZON-22-147 (ARC-22-225) 201 EL VEDADO RD (COMBO) - VARIANCES** The applicants, Perri and Robert Bishop, have filed an application requesting Town Council review and approval for a variance to provide vehicle queuing space deficient in depth between the driveway gate and edge of roadway. The Architectural Commission will perform design review of the application. *[The Architectural Review Commission Recommended: Implementation of the proposed variances will not cause negative architectural impact to the subject property. Carried 6-1.] [The Architectural Review Commission deferred the project to the December 16, 2022, meeting for a restudy of the gate. Carried 7-0.]*

No one declared ex parte communications.

Dustin Mizell, Environment Design Group, presented the plans for the proposed gate.

Ms. Hofmeister-Drew provided staff comments on the project.

Mayor Moore recommended that the application be deferred until ARCOM approved the gate. She spoke in opposition to the aesthetics of the gate.

Mr. Mizell discussed ARCOM's desire for the gate. He indicated that the Commission supported the gate but not the design of the gate. He felt confident that he could work with ARCOM to get an approved design.

Council Member Araskog expressed concern over the proposed gate due to its location on the street.

Council President Pro Tem Lindsay spoke in support of the application as long as ARCOM worked with the professional to create a new design for the gate.

Mayor Moore inquired if the gate could be open during the day and only closed at night.

Council Member Araskog recommended that the application be deferred for further study. Discussion ensued regarding approving a gate in this location.

Council President Zeidman called for public comments. No one indicated a desire to speak.

Motion made by Council Member Araskog and seconded by Council Member Cooney that Variance ZON-22-147 shall be denied due to the reason that the application does not meet criteria numbers 1, 2, 5 and 7 as set forth in Section 134-201 (A). Motion carried 3-2, with Council President Pro Tem Lindsay and Council President Zeidman dissenting.

- e. **ZON-22-151 (ARC-22-234) 760 N OCEAN BLVD—PALM BEACH COUNTRY CLUB (COMBO)—SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE** The applicant, Palm Beach Country Club, Inc. (Robert Schlager, President), has filed an application requesting Town Council review and approval for Special Exception with Site Plan Review for modifications to a previously approved Special Exception use (private golf club) in the R-A zoning district including Variance to exceed the maximum projection permitted for a new skylight. The Architectural Commission will perform design review of the application. *[The Architectural Review Commission Recommended: Implementation of the proposed variances will not cause negative architectural impact to the subject property. Carried 7-0.] [The Architectural Commission approved the replacement of the windows and doors with the applicant returning for a restudy of the south terrace, railings, elevator and skylight to the December 16, 2022, meeting. Motion carried 6-1.] [This item shall be deferred to the January 11, 2023, Town Council meeting pending review by the Architectural Review Commission.]*

This item was deferred to the January 11, 2023 meeting at the approval of the agenda.

- f. **ZON-22-157 (ARC-22-202) 256 RIDGEVIEW DR (COMBO) – VARIANCES** The applicant, Rotman Property Partnership (Francis X. J. Lynch), has filed an application requesting Town Council review and approval for variances to (1) exceed the maximum allowable amount of fill in required yards, (2) to exceed the maximum allowable height of a generator in a required yard setback, and (3) to exceed the allowable wall height in a required yard setback, for the construction of a new one-story single-family residence with related landscape and hardscape improvements. The Architectural Commission will perform the design review of the application.

Council Member Cooney declared ex parte communications.

Frank Lynch, Attorney for the owners, outlined the zoning requests for the application.

Mr. Murphy provided staff comments on the project.

Council Member Araskog inquired if the generator could be relocated to a different area. Mr. Murphy responded.

Council Member Cooney expressed appreciation to staff for catching these issues prior to approval.

Council President Zeidman called for public comments. No one indicated a desire to speak.

Motion made by Council President Pro Tem Lindsay and seconded by Council Member Cooney that Variance ZON-22-145 shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201 (A), items 1 through 7 have been met; and providing that the property owner did voluntarily commit that prior to the issuance of a building permit to either provide a recorded utility easement or an easement agreement satisfactory to the Town that ensures a recorded easement will be granted, if necessary, to underground utilities in the area. Motion carried unanimously, 5-0.

XI. ANY OTHER MATTERS

None.

XII. ADJOURNMENT

The meeting adjourned at 6:00 p.m. on December 14, 2022 without the benefit of a roll call.

APPROVED:

Margaret A. Zeidman, Town Council President

ATTEST:

Kelly Churney, Deputy Town Clerk
Date: _____

TOWN OF PALM BEACH

Town Council Meeting on: January 10, 2023

Section of Agenda Minutes

Agenda Title

Approval of Major Matters Considered by the Architectural Review Commission at its Meeting of December 16, 2022

Presenter

Wayne Bergman, Director of Planning, Zoning and Building

ATTACHMENTS:

- **Memorandum Dated January 3, 2023 from Wayne Bergman, Director of Planning, Zoning and Building**
- **Action Minutes of the Architectural Review Commission Meeting of December 16, 2022**

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 10, 2023

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

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

Re: Approval of the Architectural Review Commission Meeting Action Minutes of December 16, 2022 meeting

Date: January 3, 2022

STAFF RECOMMENDATION

Staff recommends that the Town Council approve the major items that were approved by ARCOM at the regularly scheduled meeting of December 16, 2022.

BOARD OR COMMISSION RECOMMENDATION

The Architectural Review Commission recommends that the Town Council approve major items that were considered at the regularly scheduled meeting of December 16, 2022.

GENERAL INFORMATION

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

Attachment

kmc



TOWN OF PALM BEACH

PLANNING, ZONING AND BUILDING DEPARTMENT

SUMMARY OF THE ACTIONS TAKEN AT THE ARCHITECTURAL REVIEW COMMISSION MEETING MEETING HELD ON FRIDAY, DECEMBER 17, 2022

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.

- I. **CALL TO ORDER**
- II. **ROLL CALL**
- III. **PLEDGE OF ALLEGIANCE**
- IV. **APPROVAL OF THE MINUTES FROM NOVEMBER 18, 2022 MEETINGS**
MOTION: APPROVED, AS PRESENTED
- V. **APPROVAL OF THE AGENDA**
MOTION: APPROVED, AS PRESENTED
- VI. **ADMINISTRATION OF THE OATH TO PERSONS WHO WISH TO TESTIFY**
- VII. **COMMENTS FROM THE ARCHITECTURAL COMMISSION MEMBERS**
- VIII. **PROJECT REVIEW**
 - I. **CONSENT AGENDA OF MINOR PROJECTS**

ARC-22-238 1480 N OCEAN BLVD. The applicant, Jason Kalisman, has filed an application requesting Architectural Commission review and approval for site alterations including a new driveway curb cut, new pool, and new landscape and hardscape to an existing two-story residence.
MOTION: DEFERRED TO JANUARY 25, 2023
 - B. **MAJOR PROJECTS-OLDBUSINESS**

ARC-22-234 (ZON-22-151) 760 N OCEAN BLVD—PALM BEACH COUNTRY CLUB (COMBO) The applicant, Palm Beach Country Club, Inc. (Robert Schlager, President), has filed an application requesting Architectural Commission review and approval for the replacement of windows and doors along all façades and the construction of a second floor covered 3,500 SF terrace addition and

new balconies along the rear (west) façade of an existing two-story country club and golf course and installation of a rooftop skylights including a variance from the height regulations. This is a combination project that shall also be reviewed by Town Council as it pertains to zoning relief/approval. (contd. from 11/18/22)

MOTION: APPROVED, WITH THE FOLLOWING CONDITIONS: IMPLEMENTATION OF THE PROPOSED VARIANCE WILL NOT CAUSE NEGATIVE ARCHITECTURAL IMPACT TO THE SUBJECT PROPERTY, THE COMPOSITE GLASS RAILING SHALL BE CHANGED TO A PICKET RAILING, AND THE COLUMNS ON THE TERRACE WILL BE RECTANGULAR FROM THE BASE, CONTINUING UNIFORMLY TO THE TOP OF THE COLUMN ON THE SECOND FLOOR.

ARC-22-094 249 MONTEREY RD. The applicant, Michael Peacock, has filed an application requesting Architectural Commission review and approval for the demolition of an existing single-family residence and the construction of a new single-family residence with related hardscape and landscape improvements. (contd. from 07/27/22, 09/27/22, 10/26/22)

MOTION: DEFERRED TO FEBRUARY 22, 2023 FOR A RESTUDY OF THE DESIGN IN ACCORDANCE WITH THE COMMENTS OF THE COMMISSIONERS.

ARC-22-216 (ZON-22-140) 248 COLONIAL LN (COMBO) The applicant, 306 Livingston Street Holdings I, LLC (Matthew Mirones), has filed an application requesting Architectural Commission review and approval for the construction of a new two-story residence including variances (1) to not provide required garage enclosure for two vehicles, (2 and 3) and locate a generator in a setback which is higher than allowed and not adequately screened, in the R-B zoning district. This is a combination project that shall also be reviewed by Town Council as it pertains to the Special Exception w Site Plan Review and Variance relief for approval. (contd. from 10/26/22)

MOTION: DEFERRED TO FEBRUARY 22, 2023

ARC-22-022 (ZON-22-021) 160 SEAVIEW AVE (COMBO) The applicant, Coral Beach Corporation (Angela Feldman, President) (160 Seaview Ave) and Seaview Holdings, Inc. (David Feldman, Director) (170 Seaview Ave), has filed an application requesting Architectural Commission review and approval of the construction of a new two-story guest house including variances from setback and point of measurement requirements on a unified site of 160 and 170 Seaview Avenue. Town Council will review the variance portion of the application. (contd. from 06/27/22 08/24/22, 11/18/22)

MOTION: DEFERRED TO JANUARY 25, 2023

C. MAJOR PROJECTS – NEW BUSINESS

ARC-22-215 260 NIGHTINGALE TRL. The applicant, 260 Nightingale, LLC, has filed an application requesting Architectural Commission review and approval for the construction of a new two-story residence.

MOTION: DEFERRED TO JANUARY 25, 2023

ARC-22-243 (ZON-23-014) 302 SEABREEZE AVE (COMBO) The applicant, Sean Rooney, has filed an application requesting Architectural Commission review and approval for the construction of a new two-story single-family residence with

related landscape and hardscape improvements, requiring Site Plan Review due to deficient lot width and area, and a variance to provide one garage parking space in lieu of the two required. This is a combination project that shall also be reviewed by Town Council as it pertains to the Site Plan Review.

MOTION: DEFERRED TO JANUARY 25, 2023

ARC-22-231 (ZON-23-013) 7 LA COSTA WAY (COMBO) The applicant, La Costa Way Trust (Cooper Andrew TR), has filed an application requesting Architectural Commission review and approval for exterior modifications to an existing nonconforming one-story residence including new windows and doors, new rooftop equipment with screening, new rooftop terrace and new hardscape and landscape, requiring variances for lot coverage, landscape open space, and setbacks. This is a combination project that shall also be reviewed by town council as it pertains to zoning relief/approval.

MOTION: DEFERRED TO JANUARY 25, 2023 TO ADDRESS THE COMMISSIONERS' COMMENTS RELATING TO THE LANDSCAPING AND THE ROOF HATCH.

ARC-22-187 (ZON-22-129) 441 AUSTRALIAN AVE (COMBO) The applicant, John and Ginny Collett, has filed an application requesting Architectural Commission review and approval for the construction of a new two-story single-family residence with related landscape and hardscape improvements, with variances required on a lot deficient in lot width and lot area in the R-C zoning district and including variance from landscape open space requirements. This is a combination project that shall also be reviewed by Town Council as it pertains to zoning relief/approval.

MOTION: DEFERRED TO FEBRUARY 22, 2023 WITH THE DIRECTION TO RESTUDY THE AREAS RELATING TO THE FRONT ENTRY, THE EXTERIOR FINISH, AND THE FRONT DOOR.

ARC-22-247 965 N OCEAN BLVD. The applicant, 965 N OCEAN BLVD LLC (Matthew Sellick), has filed an application requesting Architectural Commission review and approval for the construction of a new two-story residence over 10,000 SF with basement, landscape, hardscape, pool and spa.

MOTION: DEFERRED TO FEBRUARY 22, 2023 TO PROVIDE AMPLE TIME FOR THE PROFESSIONAL TO CONSIDER THE COMMENTS OF THE COMMISSIONERS AND NEIGHBORS, AND TO RETURN WITH A DESIGN THAT ALIGNS WITH THOSE COMMENTS.

D. MINOR PROJECTS - OLD BUSINESS

ARC-22-227 640 ISLAND DR. The applicant, 640 Land Trust, has filed an application to the Architectural Commission for review and approval for a second-story addition over an existing one-story garage attached to an existing two-story residence. (contd. from 11/18/22)

MOTION: DEFERRED TO JANUARY 25, 2023

ARC-22-225 (ZON-22-147) 201 EL VEDADO RD (COMBO) The applicants, Perri and Robert Bishop, have filed an application requesting Architectural Commission review and approval for the installation of two vehicular driveway gates,

including a variance from the backup/cueing distance requirement. This is a combination project that shall also be reviewed by Town Council as it pertains to zoning relief/approval. (contd. from 11/18/22)

MOTION: DEFERRED TO JANUARY 25, 2023

ARC-22-097142 PERUVIAN AVE. The applicant, Susan & Robert Taylor, has filed an application requesting Architectural Commission review and approval for the replacement of two pedestrian courtyard gates on a two- story condominium building. (contd. from 08/24/22, 09/27/22, 10/26/22, 11/18/22)

MOTION: DEFERRED TO JANUARY 25, 2023

E. MINOR PROJECTS-NEW BUSINESS

ARC-22-241 (ZON-23-002) 624 ISLAND DR (COMBO) The applicant, Holly Ann Bartlett, as Trustee of the 1220 South Ocean Boulevard Trust dated May 23, 2013, has filed an application requesting Architectural Commission review and approval for the construction of a new skylight atrium enclosing an existing open-air interior courtyard to an existing two- story residence. This is a combination project that shall also be reviewed by Town Council as it pertains to zoning relief/approval.

MOTION: DENIED

ARC-22-242 (ZON-23-003) 1030 S OCEAN BLVD (COMBO) The applicant, Martin L. Edelman as Trustee of the 1030 South Ocean Trust dated March 24, 2022, has filed an application requesting Architectural Commission review and approval for the installation of a two new vehicular driveway gates including a variance to reduce the required vehicular backup queue on a street. This is a combination project that shall also be reviewed by Town Council as it pertains to zoning relief/approval.

MOTION: DENIED, WITH SECOND MOTION INDICATING THAT IMPLEMENTATION OF THE PROPOSED VARIANCE WILL CAUSE NEGATIVE ARCHITECTURAL IMPACT TO THE SUBJECT PROPERTY.

ARC-22-212 (ZON-23-012) 246 EVERGLADE AVE (COMBO) The applicant, 246 Everglade LLC, has filed an application requesting Architectural Commission review and approval for the modification to an existing driveway, entry steps, pool and decking area, equipment area, entry path, site wall, and a new front entry vehicular gate, including variances for (1) reduced landscape open space (2) for reduced air conditioning equipment setbacks and (3) for reduced pool equipment setbacks. This is a combination project that shall also be reviewed by Town Council as it pertains to zoning relief/approval.

MOTION: DEFERRED TO JANUARY 25, 2023 WITH DIRECTION TO REMOVE THE VEHICULAR GATE AND TO CHANGE THE GROUND COVER AND VEGETATION MATERIAL.

IX. UNSCHEDULED ITEMS (3 MINUTE LIMIT PLEASE)

X. NEXT MEETING DATE: Wednesday, January 25, 2023

XI. ADJOURNMENT

TOWN OF PALM BEACH

Town Council Meeting on: January 10, 2023

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 001-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order to The Corradino Group, Inc. in the Amount of \$199,962 for a Traffic Engineering and Parking Study.

Presenter

Dean Mealy, Procurement and Contract Manager

ATTACHMENTS:

- ▣ **Memorandum Dated December 21, 2022, from Dean Mealy, Procurement and Contract Manager**
- ▣ **Resolution No. 001-2023**
- ▣ **Proposal**

TOWN OF PALM BEACH

Information for Town Council Meeting on January 10, 2023

TO: Mayor and Town Council

VIA: Kirk W. Blouin, Town Manager

VIA: Robert Miracle, CPA, Deputy Town Manager, Finance and Administration

FROM: Dean Mealy II, NIGP-CPP, CPPO Procurement, and Contract Manager

RE: **Resolution No. 001-2023** Approving Contingency Funding and the Award of a Purchase Order to The Corradino Group, Inc. in the Amount of \$199,962 for a Traffic Engineering and Parking Study

DATE: December 21, 2022

STAFF RECOMMENDATION

The Town staff recommends approving Contingency Funding and the Award of a Purchase Order to The Corradino Group, Inc. in the Amount of \$199,962 for a Traffic Engineering and Parking Study.

GENERAL INFORMATION

In March 2022, Town Council approved Resolution No. 036-2022 for Planning Services for Code Reform for the Town of Palm Beach to ZoneCo, LLC and The Corradino Group, Inc.

The Planning, Zoning, and Building Department has determined one of the deliverables is a Traffic Engineering and Parking Study. As such, the Consultant will provide traffic engineering review services related to a review of the traffic impact of the existing restaurants in the downtown area, evaluation of the existing parking supply in the downtown area and a review of the origin and destination of the traffic traveling into the downtown Town of Palm Beach area daily.

The Corradino Group Inc. submitted a proposal which details the specific scope of services to be provided. The proposal has been vetted by Planning, Zoning, and Building and by Procurement and Contract Management.

FUNDING/FISCAL IMPACT

This project will be funded from the General Fund Contingency.

USER DEPARTMENT CONCURRENCE

This item has been reviewed by the Planning, Zoning and Building Department and is approved as recommended.

TOWN ATTORNEY REVIEW

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

RESOLUTION NO. 001-2023

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF
PALM BEACH, PALM BEACH COUNTY, FLORIDA,
APPROVING A PURCHASE ORDER TO THE CORRADINO
GROUP, INC. IN THE AMOUNT OF \$199,962 FOR A TRAFFIC
ENGINEERING AND PARKING STUDY**

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

Section 1. The Town Council of the Town of Palm Beach hereby approves Resolution No. 001-2023, Approving a Purchase Order to The Corradino Group, Inc. in the Amount of \$199,962 for a Traffic Engineering and Parking Study.

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

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 10th day of January, 2023.

Danielle H. Moore, Mayor

Margaret A. Zeidman, Town Council President

Bobbie Lindsay, Town Council President Pro Tem

Julie Araskog, Town Council Member

ATTEST:

Edward A. Cooney, Town Council Member

Pat Gayle-Gordon, Acting Town Clerk

Lewis S.W. Crampton, Town Council Member

Sent via Email to wbergman@townofpalmbeach.com

December 2, 2022

Wayne Bergman, MCP, LEED AP
Director
Town of Palm Beach
Planning, Zoning, Building
360 S. County Road
Palm Beach, FL 33480

Dear Mr. Bergman:

It is our understanding that the Town of Palm Beach has requested traffic engineering and transportation planning services related to a review of the traffic impact of the existing restaurants in the downtown area, evaluation of the existing parking supply in the downtown area and a review of the origin and destination of the traffic traveling into the downtown area daily. This task work order will be per the terms and conditions of our continuing services agreement with the Town.

The Corradino Group appreciates this opportunity to submit this proposal to the Town of Palm Beach. We look forward to assisting you in providing the Town with the best traffic engineering and transportation planning service possible.

Sincerely,

Joseph M. Corradino, AICP
President
The Corradino Group, Inc.

CONSULTING SERVICE AUTHORIZATION

Statement of Work (SOW)

TOWN P.O. NO. _____

TOWN EXPENSE CODE _____

TITLE: Downtown Palm Beach Traffic Analysis

I. PROJECT DESCRIPTION:

The Consultant will provide traffic engineering review services related to a review of the traffic impact of the existing restaurants in the downtown area, evaluation of the existing parking supply in the downtown area and a review of the origin and destination of the traffic traveling into the downtown Town of Palm Beach area daily.

II. SCOPE OF SERVICES:

1. Traffic Data Collection

a) Manual Turning Movement Counts- The Consultant will collect morning and afternoon peak hour turning movement counts on a typical weekday (during school) at the following intersections within the project radius of influence (Reference Exhibit One):

- State Road A1A/S. County Road and Golfview Road (signalized)
- State Road A1A/S. County Road and Worth Avenue (signalized)
- State Road A1A/S. County Road and Peruvian Avenue (signalized)
- State Road A1A/S. County Road and Chilean Avenue (unsignalized)
- State Road A1A/S. County Road and Australian Avenue (unsignalized)
- State Road A1A/S. County Road and Brazilian Avenue (unsignalized)
- State Road A1A/S. County Road and Royal Palm Way (signalized)
- State Road A1A/S. County Road and Seaview Avenue (unsignalized)
- Sunrise Avenue and Bradley Place (signalized)
- Sunset Avenue and Bradley Place (unsignalized)
- Royal Poinciana Way and Bradley Place (signalized)
- Royal Palm Way and Cocoanut Row (signalized)
- Southern Blvd and South Ocean Blvd (roundabout)

All traffic counts will be adjusted to account for seasonal variation using the appropriate Florida Department of Transportation (FDOT) seasonal adjustment factors to represent peak season traffic conditions.

b) Streetlight Data- The Consultant will utilize Big Data to measure multimodal vehicle travel movements and patterns between zones. The Big Data will be in the form of the Streetlight InSight Data platform (Reference Exhibit Two).

- c) **Restaurant Valet Parking Data-** The Consultant will collect valet queue data in one-minute intervals and maximum queues will be documented during the weekday peak period on a typical weekday (Tuesday, Wednesday, or Thursday) between 4:00 to 8:00 P.M. and a weekend (Friday or Saturday) peak period between 5:00 to 9:00 P.M. for up to three restaurant valet drop-off/pick-up areas within the Town of Palm Beach Downtown project area limits.
- d) **Parking Data Collection-** The Consultant will collect parking data in commercial districts and corridors in the Town, including:
- Royal Palm Way Corridor South Lake Drive to South Ocean Boulevard
 - North County Road (A1A) Corridor from Worth Avenue to Seaview Avenue
 - Peruvian Avenue Corridor from Coconut Row to North County Road (A1A)
 - Worth Avenue Corridor from Coconut Row to South Ocean Boulevard
 - Mixed-use district between Royal Poinciana Way to Sunrise Avenue which area is zoned Commercial Town Serving (C-TS)

The purpose of Task 1-d is to provide parking data that is ready for analysis of general mixed-use / commercial district parking supply and demand in the Town of Palm Beach.

The study areas for Task 1-d are public roadways along land designated as “Commercial” on the Town Zoning Map. It includes the zoning districts: Commercial Office, Professional, Institutional (C-OP), Commercial Planned Center (C-PC), Commercial Town Serving (C-TS), Commercial, Worth Avenue (C-WA), and Commercial Offices (C-B). Private lots, garages, and valet operations are included in Task 1c.

Land Use & Parking Supply: For each study area, parking inventory by block based on permit records, Town GIS information and field or aerial verification as required. Existing land use and occupancy data will be collected, including: land use, gross floor area, and permitted on-site parking spaces. To perform this analysis at a level of detail for retail cell occupancy, Corradino will require the Town to provide such from its current-year business tax/ permit data. Public on-street and off-street parking supply will also be identified by block based on aerial photography and Town records for structured parking.

Parking Occupancy Data: For each district three surveys will be taken:

- Midday - a weekday (Tuesday -Thursday) midday survey will be performed from 12:00 noon to 2:00 pm to capture the presumed peak for offices, retail and restaurant patronage on a weekday.
- Evening - a Friday evening survey will be performed from 5:00 pm to 8:00 pm to capture the presumed peak for after-work retail and restaurant patronage on a weekday.
- Weekend - a Saturday midday survey will be performed from 2:00 pm to 3:00 pm capture the presumed peak for retail and restaurant patronage on a weekend.

Parking Turnover & Occupancy: Accumulation, turnover and occupancy studies will be performed from 11:00 am to 7:00 pm on a weekend day at sample locations within the general retail/restaurant area and town-serving commercial districts. The locations will be:

- Worth Avenue from Coconut Row to South Ocean Boulevard
- North County Road (A1A) from Australian Avenue to Royal Palm Way
- Sunrise Avenue from Bradley Place to North County Road

Private Lots and Valet: In addition, if the Town collects receipt data from private lot operators or valet operators, we will examine to determine if occupancy and duration information can be ascertained and if so, will be used to augment the on-street data.

2. Traffic Analysis- Consultant will complete the following traffic analysis related to the traffic data collection from task one.

- a) **Trip Generation Comparison-** The Consultant will prepare a trip generation comparison using the ITE Trip Generation Handbook. The trip generation comparison will include a comparison of restaurant land use versus other commercial land uses.
- b) **Intersection Capacity Analysis-** The Consultant will perform an Intersection capacity analysis for the subject intersections using software based on the Highway Capacity Manual (HCM) methodology. The analysis will be performed for morning and afternoon peak hour conditions using Synchro 11 software. The analysis scenarios will include the existing year (2022) and the future year (2027) with alternative commercial uses. The Consultant will evaluate the travel time and delay of the intersection network using Synchro 11 software. The Intersection capacity analysis will include a queueing evaluation of the bridge openings over the Lake Worth Lagoon at the Southern Blvd Bridge, Royal Palm Way Bridge and Royal Poinciana Way Bridge. The queueing evaluation will determine if there is an impact to the nearest signalized intersection to the east of each bridge crossing in the Town of Palm Beach.
- c) **Valet Parking Operational Analysis-** The Consultant will perform field observations at the three selected restaurant valet drop-off pick up areas within the Town of Palm Beach Downtown project area limits. The field observations will be performed during the queue data collection time periods. The purpose of these observations is to identify operational issues related to existing valet operations and traffic circulation patterns of these three locations. Photographs of the traffic circulation will be taken as part of this task. The field observations will document if queues spill back into public right-of-way. The valet operations queueing analysis will be conducted consistent with procedures described in ITE's Transportation and Land Development, 1988. A traffic circulation figure will be prepared to illustrate the valet routes to and from the vehicle drop-off/pick-up area.

- d) **Origin Destination Analysis-** The Consultant will evaluate the Streetlight data to determine the historical traffic patterns to the Town each day. This will include the following:
- Determination if the traffic congestion is local traffic or traffic from outside the Town of Palm Beach.
 - Evaluate the peak hour road segment level of service for the primary ingress egress corridors in the Town of Palm Beach
3. **Parking Analysis: Commercial Areas-** The residents of the Town of Palm Beach have expressed concerns that land development and parking regulations in the commercial areas need revision for improved management. Where parking supply and demand become misaligned, economic and recreational opportunities become inhibited and residents' quality-of-life becomes strained. The Town of Palm Beach as an island community is also a destination for visitors for its natural and architectural beauty within short, walkable distances. While providing for excellent walkable community fabric, the compact geography also exacerbates impacts from parking demands that are not managed to the best practicable standards. To improve the quality-of-life and economic viability of the commercial areas, the Town will consider revising its land development and parking regulations and will need parking audit information for a data-driven approach. Task 3 is to provide the Town with the necessary data to establish the existing and project conditions for different land use scenarios. The data and analysis will answer three questions.
1. How much parking is provided in the study area (Reference Exhibit Three).
 2. How parking is being utilized and if demand exceeds capacity
 3. Identification of changes in the land use and parking regulations that can affect parking demand, with particular attention to identifying the different impacts of restaurants and other eateries versus retail and other commercial uses.
- a) **Existing Data Sources-**
- Results of Task 1-d
 - Near-term, new development scenario provided by the Town
 - Zoning regulations by block with relevance to parking requirements and potential build-out or change of tenants
 - Parking utilization, management and pricing for public parking as available
 - Traffic volume, seasonal patterns, and trip growth data from the Palm Beach County travel model
 - Village roadway-related reconstruction plans to identify roadway changes and potential changes to on-street parking supply
 - Review of the Town of Palm Beach Traffic & Parking Improvement Plan, December 2006, and meetings with Town staff to discuss the successes and challenges of prior parking strategies with the intention to assure that all necessary data and analysis is performed

- b) **Existing and Future Conditions, and Scenario Analysis-** Parking and mobility deficiencies, opportunities and needs will be identified in this Task. Existing and future parking deficiencies will be identified by block based on existing development, and for future conditions based on a near-term projected development scenario provided by the Town. Scenario analysis to identify the different impacts of restaurants and other eateries versus retail and other commercial uses will also be developed.
4. **Technical Memorandum-** The Consultant will summarize the traffic analysis and findings in a report using tables and figures as necessary. The technical memorandum will be signed and sealed by a Florida registered professional engineer.
5. **General Coordination and Meeting Attendance-** The Consultant will provide general coordination and meeting attendance with the Town of Palm Beach.
- Note: The Town of Palm Beach will select the existing restaurants where valet parking counts will be collected. Once selected, the Town of Palm Beach will assist in confirmation of the peak times for the valet queuing and parking utilization data collection.
 - Note: This scope of services includes thirteen intersections where manual turning movement counts will be collected. Any additional count locations will be provided as an additional service as requested by the Town of Palm Beach.
 - Note: This scope of services assumes that the Town of Palm Beach will provide bridge crossing opening/dwell times for each of the three bridge crossing locations (Southern Blvd Bridge, Royal Palm Way Bridge and Royal Poinciana Way Bridge).
 - Note: This scope of services does not include preparation of design plans or permitting of intersection or road segment improvements based on the intersection analysis. All design related services such as roadway design, civil engineering design, structural engineering, surveying, geotechnical, utility coordination, landscape architecture and other related services are not included. These services can be provided as an additional services agreement as necessary at the request of the Town of Palm Beach.
 - Note: This scope of services does not include preparation of additional traffic analysis not included within this scope of services as requested by Palm Beach County Traffic Engineering Division or FDOT. These services can be provided as an additional service as requested by the Town of Palm Beach.
 - Note: This scope of services does not include collecting pedestrian and bicycle traffic counts beyond what was collected as part of the manual turning movement counts.

III. BUDGET:

The Corradino Group staff will provide the Town of Palm Beach with the basic services described in this scope of services for an hourly not to exceed fee amount of **\$158,760.00** in accordance with our continuing services contract (Reference Hourly Rates in Exhibit Four). The traffic data collection will be provided for a lump sum fee amount of **\$41,202.00**.

IV. ACCEPTANCE OF PROPOSAL

Downtown Palm Beach Traffic Analysis

Approved by:

TOWN OF PALM BEACH

Date: _____

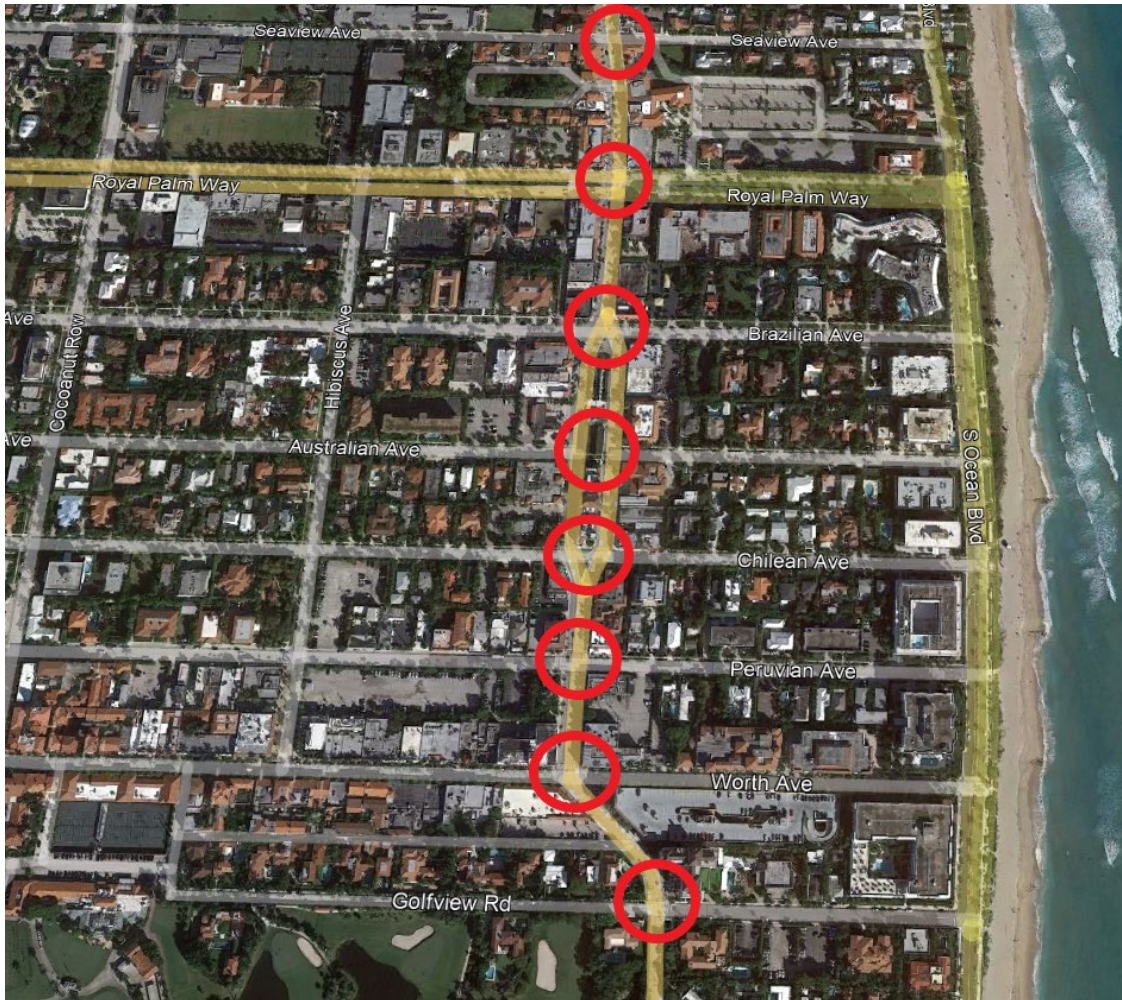
By: _____
Kirk W. Blouin, Town Manager

THE CORRADINO GROUP, INC.

Date: _____

By: _____
Joseph M. Corradino, President

EXHIBIT ONE
MANUAL TURNING MOVEMENT COUNT LOCATIONS



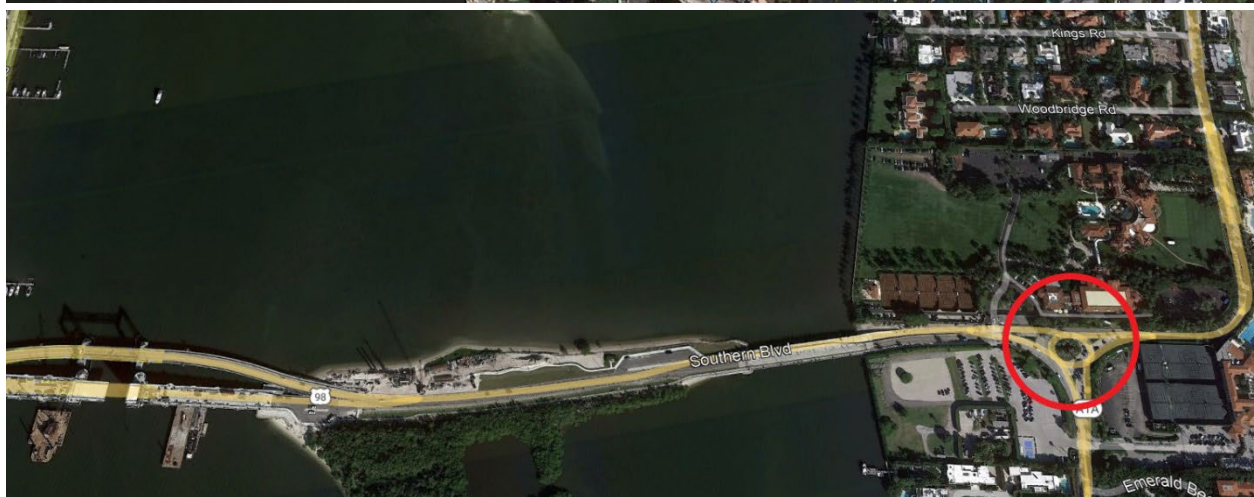
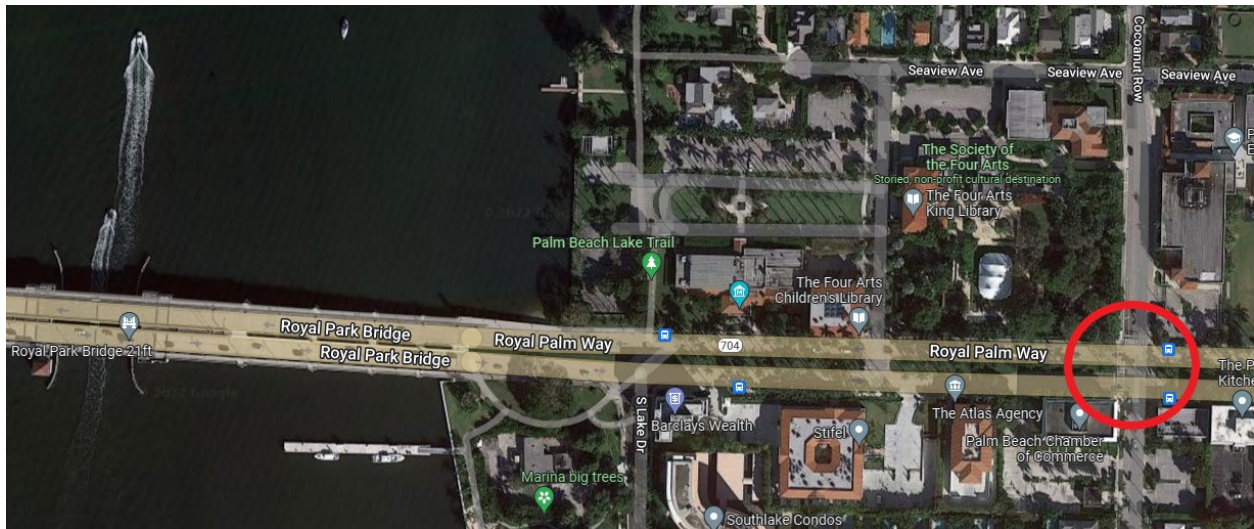


EXHIBIT TWO
STREETLIGHT DATA PLATFORM BACKGROUND INFORMATION

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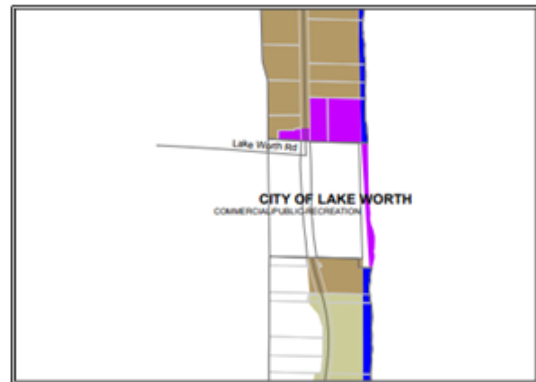
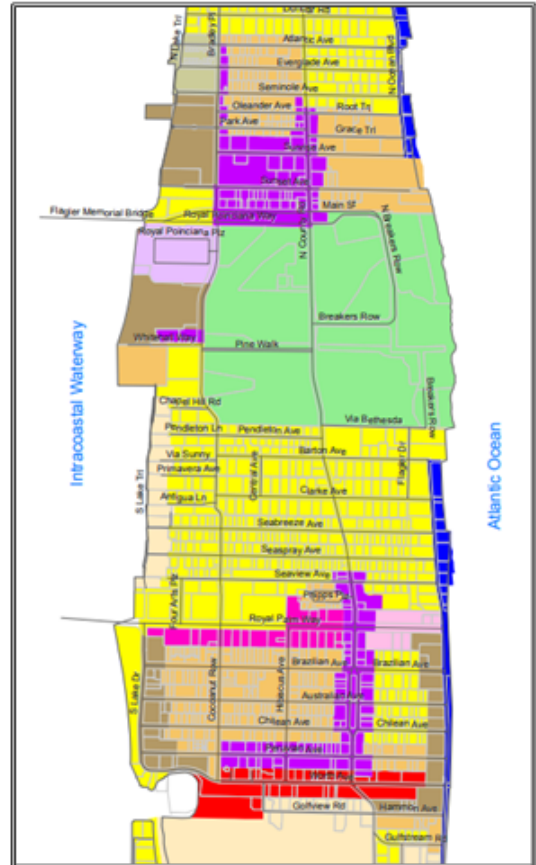
EXHIBIT THREE **PARKING ANALYSIS STUDY AREA**

The study area for the parking analysis will be the commercial and mixed-use districts in Palm Beach and include the areas in the Town that are designated Commercial on the Town Zoning Map:

- Commercial Office, Professional, Institutional (C-OPI)
- Commercial Planned Center (C-PC)
- Commercial Town Serving (C-TS)
- Commercial, Worth Avenue (C-WA)
- Commercial Offices (C-B)

The most southern commercial district at the northeast corner of Lake Avenue and South Ocean Boulevard will not be included in this analysis because this area has no on-street parking and is comprised of a single retail / services / office center with private parking.

Based on our understanding of the scope, this area is not an areas of parking concern. The public parking to the east of the center is for R. G. Kreusler Park and beach access. Parking for this park may be skewed by the much larger public metered parking inventory for Lake Worth Beach immediately to the south.



ZONING MAP EXCERPT LEGEND	
	Commercial Office, Professional, Institutional (C-OPI)
	Commercial Planned Center (C-PC)
	Commercial Town Serving (C-TS)
	Commercial, Worth Avenue (C-WA)
	Commercial Offices (C-B)

EXHIBIT FOUR
APPROVED HOURLY RATE SCHEDULE

The Corradino Group, Inc. Schedule of Hourly Billing Rates

	Hourly Rate
Principal-in-Charge	\$ 225.00
Principal Planner	\$ 210.00
Senior Planner	\$ 200.00
Planner/Architect	\$ 150.00
Associate Planner	\$ 100.00
Assistant Planner	\$ 90.00
Senior Engineer (PE)	\$ 238.00
Engineer (PE)	\$ 165.00
Attorney	\$ 250.00
Clerical	\$ 65.00

TOWN OF PALM BEACH

Town Council Meeting on: January 10, 2023

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 002-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order to Kimley-Horn and Associates, Inc. for FY23 Landfill Services in the Amount of \$103,890 and Establishing a Project Budget of \$114,000.

Presenter

Dean Mealy, Procurement and Contract Manager

ATTACHMENTS:

- ▣ **Memorandum Dated December 21, 2022, from Dean Mealy, Procurement and Contract Manager**
- ▣ **Resolution No. 002-2023**
- ▣ **Proposal**

TOWN OF PALM BEACH

Information for Town Council Meeting on January 10, 2023

TO: Mayor and Town Council

VIA: Kirk W. Blouin, Town Manager

VIA: Robert Miracle, CPA, Deputy Town Manager, Finance and Administration

FROM: Dean Mealy II, NIGP-CPP, CPPO Procurement, and Contract Manager

RE: **Resolution No. 002-2023** Approving a Purchase Order to Kimley-Horn and Associates, Inc. in the Amount of \$103,890 and Establish a Project Budget of \$114,000 for Skees Road and Okeechobee Boulevard Landfill Facilities 2023 On-Call Consulting, Compliance Sampling and Monitoring

DATE: December 21, 2022

STAFF RECOMMENDATION

The Town staff recommends approving a Purchase Order to Kimley-Horn and Associates, Inc. in the Amount of \$103,890 and Establish a Project Budget of \$114,000 for Skees Road and Okeechobee Boulevard Landfill Facilities 2023 On-Call Consulting, Compliance Sampling and Monitoring.

GENERAL INFORMATION

Kimley- Horn and Associates, Inc. provides on-call consulting, permit compliance sampling and monitoring at the Town owned landfill facilities. Sampling, reporting and monitoring is a permit requirement and involves coordination with regulatory agencies to include FDEP, FDOH, SFWMD and Palm Beach County. Included in the proposal is the completion and filing of the Good Neighbor Report, Landfill Capacity Estimation and Waste Reduction Consulting.

Kimley-Horn and Associates, Inc. has been awarded this function for a period of years and has a great working relationship with the regulatory agencies.

FUNDING/FISCAL IMPACT

This project will be funded from the Public Works Budget.

USER DEPARTMENT CONCURRENCE

This item has been reviewed by Public Works and is approved as recommended.

TOWN ATTORNEY REVIEW

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

RESOLUTION NO. 002-2023

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF
PALM BEACH, PALM BEACH COUNTY, FLORIDA,
APPROVING A PURCHASE ORDER TO KIMLEY-HORN AND
ASSOCIATES, INC. FOR FY23 LANDFILL SERVICES IN THE
AMOUNT OF \$103,890 AND ESTABLISHING A PROJECT
BUDGET OF \$114,000**

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

Section 1. The Town Council of the Town of Palm Beach hereby approves Resolution
No. 002-2023, Approving a Purchase Order to Kimley-Horn and Associates, Inc. for FY23
Landfill Services in the Amount of \$103,890 and Establishing a Project Budget of \$114,000.

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

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the
Town of Palm Beach assembled this 10th day of January, 2023.

Danielle H. Moore, Mayor

Margaret A. Zeidman, Town Council President

Bobbie Lindsay, Town Council President Pro Tem

Julie Araskog, Town Council Member

ATTEST:

Edward A. Cooney, Town Council Member

Pat Gayle-Gordon, Acting Town Clerk

Lewis S.W. Crampton, Town Council Member



October 27, 2022

Mr. Dean Mealy
Town of Palm Beach
951 Old Okeechobee Road, Ste. "A"
West Palm Beach, FL 33401

**RE: *Skees Road and Okeechobee Boulevard Landfill Facilities
2023 On-Call Consulting, Compliance Sampling and Monitoring Proposal***

Dear Dean,

Kimley-Horn and Associates, Inc. ("Kimley-Horn" or "CONSULTANT") is pleased to submit this proposal to The Town of Palm Beach ("TOWN" or "CLIENT") for on-call consulting, permit compliance sampling and monitoring at the Skees Road and Okeechobee Boulevard Landfill Facilities. Our project understanding, scope of services, fee basis, and schedule follow.

Project Understanding

The Town of Palm Beach currently owns and operates two Class III landfills. The sites are located on Okeechobee Blvd. and on Skees Road. The operating permits for the landfills require yearly monitoring with reports that are to be submitted to the FDEP. Kimley-Horn will work with a subconsultant to perform the semiannual and biennial compliance sampling and prepare the monitoring reports for the 2023 permit year for both facilities.

The Town previously renewed the operating permits for both facilities. The sampling and monitoring requirements described in those permits will be performed under this Scope of Services. In 2012, the Town began a voluntary supplementary sampling program to compliment the compliance monitoring program for select parameters. This program will continue in 2023 in the form of two quarterly sampling events in the same manner as was performed in 2022. We understand that the Okeechobee site could begin redevelopment which would impact the sampling services at this site. If that happens, we will discontinue sampling services at the Okeechobee site and not perform the work associated with those tasks. Based on our current understanding of the redevelopment schedule, this could potentially impact the sampling activities in the latter part of the year.

The Town has also requested that Kimley-Horn provide assistance related to monitoring the volume of debris deposited at the sites each year in the form of photogrammetric surveying. The topography generated by the photogrammetry will be used to develop a three-dimensional surface that can then be compared to the closure surface of the landfill and the surface that was developed based on the aerial photogrammetry that was collected in January 2022. This information will allow the Town to better account for the volume of debris being placed at the sites each year along with more accurate forecasting of remaining landfill capacity.

The Town has requested that Kimley-Horn provide on-call consulting services at each of the landfill sites. These services may consist of the design of various improvements at the facilities, recommendations regarding the operations at each facility, assistance related to the redevelopment of the Okeechobee site, and/or assistance with the maintenance of each facility.

Based on this understanding, a description of the proposed scope of services is presented below.

Scope of Services

Task 1A – Operating Permit Compliance Monitoring, Groundwater Testing and Reporting – Skees Road Facility

Kimley-Horn will employ the services of a subconsultant to perform groundwater sampling, testing and reporting in accordance with the Town's landfill operating permit conditions for the Skees Road Landfill site. Samples will be obtained for the on-site monitoring wells and analyzed as specified in Appendices 5 and 6 of the Operating Permits on a semi-annual basis in January and July of 2023.

A Report will be generated that describes the laboratory testing results for the sampling event at the facility. This report will be submitted to the Palm Beach County Health Department (PBCHD) as required by the operating permit conditions. Kimley-Horn will review the report prepared by the subconsultant prior to submission to the Town or the PBCHD and offer comments or recommendations as appropriate. Kimley-Horn staff will attend up to one (1) meeting with the Town to discuss the results of the supplemental sampling and analysis, if required.

In accordance with Rule 62-701.510(7) F.A.C., if sampling parameters are detected at concentrations significantly higher than those concentrations normally expected for the site, or which are at levels above PBCHD/FDEP water quality standards or criteria specified in Chapter 62-520 F.A.C., Kimley-Horn may recommend to the Town that re-sampling be performed for confirmation purposes or recommend other appropriate alternative actions. Any re-sampling services or alternative actions shall be performed as additional services only after Kimley-Horn's receipt of written approval by the Town to perform such actions.

Task 1B – Operating Permit Compliance Monitoring, Groundwater Testing and Reporting – Okeechobee Blvd. Facility

Kimley-Horn will employ the services of a subconsultant to perform groundwater sampling, testing and reporting in accordance with the Town's landfill operating permit conditions for the Okeechobee Landfill site. Samples will be obtained for the on-site monitoring wells and analyzed as specified in Appendices 5 and 6 of the Operating Permits on a semi-annual basis in January and July of 2023.

A Report will be generated that describes the laboratory testing results for the sampling event at the facility. This report will be submitted to the Palm Beach County Health Department (PBCHD) as required by the operating permit conditions. Kimley-Horn will review the report prepared by the subconsultant prior to submission to the Town or the PBCHD and offer comments or recommendations

as appropriate. Kimley-Horn staff will attend up to one (1) meeting with the Town to discuss the results of the supplemental sampling and analysis, if required.

In accordance with Rule 62-701.510(7) F.A.C., if sampling parameters are detected at concentrations significantly higher than those concentrations normally expected for the site, or which are at levels above PBCHD/FDEP water quality standards or criteria specified in Chapter 62-520 F.A.C., Kimley-Horn may recommend to the Town that re-sampling be performed for confirmation purposes or recommend other appropriate alternative actions. Any re-sampling services or alternative actions shall be performed as additional services only after Kimley-Horn's receipt of written approval by the Town to perform such actions.

Task 1C – Good Neighbor Report – Skees and Okeechobee Facilities

In accordance with the Specific Conditions of the Operating Permits for both facilities, Kimley-Horn will prepare the Good Neighbor Program Annual Report for both the Skees and Okeechobee facilities for submittal to the PBCHD, PBC Fire Rescue, and the Solid Waste Authority. The Report will contain the following information:

- Pest Control Inspection Reports for the previous calendar year (provided by the Town)
- A labeled aerial photograph showing the following:
 - Landfill material cell locations
 - Footprint dimensions
 - Peak cell heights (in feet NGVD)
 - Descriptions of the areas of each cell where new material was deposited in the prior year.
 - Maximum depth of decomposing material for each cell
 - Location and minimum width of firebreaks and access roads
 - Water supply sources

The report will be submitted to the above listed entities by March 1, 2023 in accordance with the permit conditions.

Task 2A – Continued Supplemental Groundwater Monitoring – Skees Road Facility

Skees Road Site Supplemental Quarterly Monitoring

Supplemental Monitoring at the Skees Road landfill consists of bi-annual sampling and reporting for Arsenic, Chloride, Sodium and Ammonia that is in addition to the semi-annual sampling events described in Task 1 above. This work will occur in April and October of 2023. Kimley-Horn proposes to employ the services of a subconsultant to perform the sampling and reporting. Kimley-Horn will coordinate their efforts and review their reports prior to submittal to the Town and the PBCHD.

Task 2B – Continued Supplemental Groundwater Monitoring – Okeechobee Blvd. Facility

Okeechobee Boulevard Site Supplemental Quarterly Monitoring

Supplemental Monitoring at the Okeechobee Blvd. landfill consists of bi-annual sampling and reporting for Cadmium, Lead, Chloride, Sodium and Ammonia that is in addition to the semi-annual sampling

events that are already underway at the site. This work will occur in April and October of 2023. Kimley-Horn proposes to employ the services of a subconsultant to perform the sampling and reporting. Kimley-Horn will coordinate their efforts and review their reports prior to submittal to the Town and the PBCHD.

Task 3 – Landfill Capacity Estimation

Kimley-Horn will use topographical information collected under a separate authorization to develop an updated existing surface model of the Okeechobee and Skees facilities in AutoCAD Civil 3D. The closure elevation surfaces of each landfill that were previously developed will be overlaid onto the updated existing surface model. A three-dimensional cut/fill analysis will be performed using the Civil 3D program to estimate the remaining volumetric capacity in each landfill. Kimley-Horn will provide a copy of the photogrammetric map for each facility along with the results of the volumetric capacity analysis.

The estimated remaining life and capacity of the landfill facilities will be provided to the Palm Beach County Health Department by April 1, 2023 per Specific Condition #21 of the operating permits for both facilities.

Task 4 – Okeechobee Regulatory Consulting

Kimley-Horn will provide regulatory on-call consulting services related to the recent land lease that was approved for the Okeechobee Blvd. landfill property. It is envisioned that this task will predominantly consist of meeting attendance with the Town, Lessee, Town/Lessee Attorneys, and/or the Palm Beach County Health Department / FDEP to provide advice to the Town concerning the existing operating permit for the facility and how the permit conditions will impact the future development of the site. This task also carries an expense budget for well resampling activities, if required. The exact scope of services is unknown at this time, so we are providing an hourly budget for on-call services. We will not exceed this budget without written authorization from the Town. If services are required that exceed this task budget, we will provide the Town with a proposal for consideration and approval prior to proceeding with the work.

Task 5 – Skees Regulatory Consulting

Kimley-Horn will provide on-call consulting services related to regulatory and/or waste reduction activities at the Skees Road facility. Waste reduction activities will be pilot tested for effectiveness as it is anticipated that the Okeechobee facility will not be available for waste in the future. It is anticipated that services will consist of meetings with the Town and Palm Beach County Health Department, revisions to the operations manual for Skees, review of waste reduction activities and research related to waste reduction techniques that could be tested at the site for effectiveness. This task also carries an expense budget for well resampling activities, if required. The exact scope of services is unknown at this time, so we are providing an hourly budget for on-call services. We will not exceed this budget without written authorization from the Town. If services are required that exceed this task budget, we will provide the Town with a proposal for consideration and approval prior to proceeding with the work.

Additional Services

Any services not specifically provided for in the above scope, as well as any changes in the scope you request, will be considered additional services. These services will be performed based on proposals approved by the Town prior to the performance of those requested additional services.

Fee and Billing

KHA will perform the services described in Tasks 1 through 3 of the Scope of Services on a lump sum basis in accordance with our Contract with the Town. Lump sum fees will be invoiced monthly based upon the overall percentage of services performed.

Task 1A – Compliance Monitoring – Skees	\$22,406
Task 1B – Compliance Monitoring – Okeechobee (January)	\$ 9,098
Task 1B – Compliance Monitoring – Okeechobee (July)	\$ 9,798
Task 1C – Good Neighbor Reporting	\$ 4,500
Task 2A – Supplemental Groundwater Monitoring - Skees	\$11,723
Task 2B – Supplemental Groundwater Monitoring - Okeechobee (April)	\$ 5,051
Task 2B – Supplemental Groundwater Monitoring – Okeechobee (October)	\$ 5,051
Task 3 – Photogrammetric Mapping and Landfill Capacity Estimation	\$21,263

KHA will perform the services described in Tasks 4 and 5 of the Scope of Services on an hourly basis in accordance with our Contract with the Town. It is recommended that the following budgets be established for these services.

Task 4 – Okeechobee Regulatory Consulting	\$ 7,500
Task 5 – Skees Regulatory Consulting	\$ 7,500

Closure

In addition to the matters set forth herein, our Agreement shall include and be subject to, and only to, the terms and conditions in the Professional Services Agreement between the Town of Palm Beach and Kimley-Horn and Associates, Inc., dated July 10, 2019, which are incorporated by reference. As used in the Agreement, the term "CONSULTANT" shall refer to Kimley-Horn and Associates, Inc., and the term "TOWN" shall refer to The Town of Palm Beach.

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

We appreciate the opportunity to provide these services to you. Please contact me at (561) 840-0820 or kevin.schanen@kimley-horn.com should you have any questions.

Sincerely,



By: Kevin Schanen, P.E.
Principal

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Proposal.docx

TOWN OF PALM BEACH

Town Council Meeting on: January 10, 2023

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 004-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Department of Public Works Engineering Division Standards Applicable to Public Rights of Way and Easements, by Amending Chapter XII, Miscellaneous Provisions, Construction Parking & Construction Site Management, to Include NFPA 1, Chapter 16, Safeguarding Construction, Alteration, and Demolition Operations and the Town Code of Ordinances, Chapter 38, Emergency Services, Section 38-35, Contractor Activated False Alarms.

Presenter

Wayne Bergman, Director of Planning, Zoning and Building

ATTACHMENTS:

- ▣ **Memorandum Dated December 29, 2022, from Wayne Bergman, Director of Planning, Zoning and Building**
- ▣ **Resolution No. 004-2023**

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 10, 2022

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

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



Re: Changes to the Public Works Right of Way Manual to Include Certain Fire code Violations Under the "Three Strike Program" – Resolution No. 004-2023

Date: December 29, 2022

GENERAL INFORMATION

For your consideration is Resolution No. 004-2023. This Resolution amends the Town Public Works Right of Way Manual at Chapter XII, Miscellaneous Provisions, Construction Parking & Construction Site Management by including certain Fire Code violations relating directly with construction and demolition activities. Specifically, the Fire Chief and Fire Marshal propose to include under the Three-Strike program any violations at constructions sites regulated by the National Fire Prevention Association (NFPA) 1, Chapter 16, Safeguarding Construction, Alteration, and Demolition Operations; and Chapter 38, Emergency Services, of the Town Code, Section 38-35, Contractor Activated False Alarms.

The primary goal of this change is to eliminate, or at least reduce, the large number of false alarms generated at construction and demolition sites. Chief Donatto's attached email show the large number of false alarms from these sites during 2022.

This proposal was reviewed by PZB, Fire, Police and Public Works and is a collaborative attempt to better regulate construction and demolition projects while protecting the ability of emergency services to respond to actual emergencies, not to false alarms.

The draft documents were reviewed by Skip Randolph for form, content, and legal sufficiency. Resolution No. 004-2023 is ready for your consideration and adoption, as this Resolution provides the technical changes to the Public Works Right of Way Manual to incorporate the additional strikes under the program.

cc: James Murphy, Assistant Planning, Zoning and Building Director
John Randolph, Town Attorney
Chief Darrel Donatto
Chief Nicholas Caristo
Paul Brazil, Director of Public Works
Fire Marshal Martin DeLoach

Wayne Bergman

From: Darrel Donatto
Sent: Thursday, December 22, 2022 9:26 AM
To: Wayne Bergman
Cc: Nicholas Caristo; Paul Brazil; Avia Valencia; Sean Baker; Jimmy Duane; Martin Deloach; Joseph Sekula
Subject: RE: Contractor Derived Nuisance Alarms

Palm Beach Fire Rescue responded to 140 contractor derived false fire alarms in fiscal year 2022. This represented 29% of the fire alarms that we responded to in FY2022.

Of these 140 alarms, 22 locations had two or more alarms at that location in FY2022.

Address	# of Contractor Derived Alarms
333 SUNSET AVE	5
400 S OCEAN BLVD	4
8 WINDSOR CT	3
583 N LAKE WAY	3
2000 S OCEAN BLVD	3
201 LA PUERTA WAY	3
221 WORTH AVE	3
142 N COUNTY RD	2
180 SUNSET AVE	2
2780 S OCEAN BLVD	2
2842 S OCEAN BLVD	2
726 HI MOUNT RD	2
300 N LAKE WAY	2
2500 S OCEAN BLVD	2
340 BRAZILIAN AVE	2
150 S OCEAN BLVD	2
167 SEABREEZE AVE	2
1320 N LAKE WAY	2
3140 S OCEAN BLVD	2
2275 S OCEAN BLVD	2
360 S OCEAN BLVD	2
350 ROYAL PALM WAY	2

The average time spent on each call was 15 minutes per call and the total time spent on contractor derived false fire alarms in FY2022 was 34 hours and 26 minutes.

The time spent on these alarms effectively removed our units from the ability to respond the closest possible fire rescue unit to other emergency calls during the time they were tied up on the false alarm. In addition, for many of these calls, a police officer was also dispatched, taking this officer away from other duties.

We have tried various methods of reducing unwanted fire alarms caused by contractors and construction including education and fines. The fire codes requires temporary protective coverings to be used on all fire protection devices during renovations to ensure that painting or construction dust will not contaminate the smoke detectors and other

devices and control equipment. Contractors are not doing this. The general contractors always blame the subs; and the subs are in and out without any care for the alarms they cause.

Marty has identified what we think can be an effective tool for reducing unwanted fire alarms that are caused by contractors. While we understand the gravity of the three-strike rule on contractors, we have not been able to identify other solutions that will be effective in reducing these unwanted fire alarms and keeping our units available for emergency calls.



Darrel Donatto

Fire Chief & Dir. of Emergency Mgmt
Palm Beach Fire-Rescue | Town of Palm
Beach

 (561) 227-6492 | (561) 719-3517
 ddonatto@townofpalmbeach.com
 <https://townofpalmbeach.com/>
 355 S County Road, Palm Beach, FL 33480



The Palm Beach Way... SETTING THE STANDARD

From: Martin Deloach <MDeLoach@TownofPalmBeach.com>

Sent: Thursday, December 22, 2022 8:20 AM

To: Wayne Bergman <wbergman@TownOfPalmBeach.com>

Cc: Nicholas Caristo <NCaristo@PalmBeachPolice.com>; Paul Brazil <PBrazil@TownofPalmBeach.com>; Darrel Donatto <DDonatto@TownofPalmBeach.com>; Avia Valencia <avalencia@TownOfPalmBeach.com>

Subject: Contractor Derived Nuisance Alarms

In 2016 the fire department recognized that a fluctuating number of our nuisance alarms were being derived by contractors performing construction activities. The false fire alarm ordinance was modified to directly charge any contractor performing work that caused a nuisance (false) alarm. Unfortunately, our records indicate that the direct fines have not curtailed the improper construction procedures, specifically in the fire code they are required to protect all life safety devices during renovations of existing buildings.

Mrs. Debby Moody recognized the problem from our discussion here at Town Hall and suggested that we include this improper construction activity in the Three Strike Program. In the Florida Fire Prevention Code, NFPA 1 chapter 16 states, "structures undergoing construction, alteration, or demolition operations, including those in underground locations, shall comply with NFPA 241 and this chapter." NFPA 241 states in chapter 7 under fire safety program section 7.1.2 (3) Fire protection systems, as follows (b) For demolition operations, preservation of existing fire protection systems during demolition."

Our adopted code requires the equipment to be protected during the construction processes. Absent the protection, the equipment, is damaged, by the extra dust or chemicals used in construction procedures. After the exposure to chemicals, or heavy dust predictably, the equipment does not respond to smoke situations as designed.

Nuisance alarms use our valuable resources having police and fire units respond to an alarm that easily could be prevented. These alarms damage the equipment used to initiate an alarm within the buildings of our town and stress, our residents, during building evacuations.

We have passed out information to the contractors for several years as well as fined contractors who are responsible for contractor derived false (nuisance) alarms with no measurable decline in these types of alarms. It can be broken down,

to simplistic terms, that proper set up, and care, when beginning construction procedures, will minimize or eliminate contractor derived nuisance alarms.

Our three strike rule is designed to ensure contractors perform as expected within the Town of Palm Beach. This violation of our adopted code, town ordinance and damage to expensive equipment needs to be included in our three strike program.

I have discussed the problems with Mr. Paul Brazil, Chief Nicholas Caristo, Mr. Wayne Bergman and Chief Darrel Donatto. After my discussions, all of these department directors support adding the contractor derived nuisance alarms into the three strike program.

Marty DeLoach
Fire Marshal

Town of Palm Beach
Fire Rescue Department
300 N. County Road
Palm Beach, FL 33480
Phone: 561-227-6497
Fax: 561-838-5427
www.townofpalmbeach.com

RESOLUTION NO. 004-2023

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE DEPARTMENT OF PUBLIC WORKS ENGINEERING DIVISION STANDARDS APPLICABLE TO PUBLIC RIGHTS OF WAY AND EASEMENTS, BY AMENDING CHAPTER XII, MISCELLANEOUS PROVISIONS, CONSTRUCTION PARKING & CONSTRUCTION SITE MANAGEMENT, TO INCLUDE NFPA 1, CHAPTER 16, SAFEGUARDING CONSTRUCTION, ALTERATION, AND DEMOLITION OPERATIONS AND THE TOWN CODE OF ORDINANCES, CHAPTER 38, EMERGENCY SERVICES, SECTION 38-35, CONTRACTOR ACTIVATED FALSE ALARMS.

WHEREAS, the Town Council has adopted the Department of Public Works, Engineering Division Standards Applicable to Public Rights of Way and Easements (aka "Right of Way Manual") by Ordinance 11-94 on July 12, 1994; and

WHEREAS, the Right of Way Manual is reviewed from time to time and may be modified by Resolution of the Town Council; and

WHEREAS, the Town has determined that Fire Prevention Code violations, relating to construction sites and false alarms, should be added to the Right of Way Manual at Chapter XII, Miscellaneous Provisions, Construction Parking and Construction Site Management.

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

Section 1. The Right of Way Manual is hereby amended at Chapter XII, Miscellaneous Provisions, Construction Parking & Construction Site Management, as provided on Exhibit "A", attached.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this _____ day of _____ 2023.

Danielle H. Moore, Mayor

Julie Araskog, Town Council Member

Edward A. Cooney, Town Council Member

Lewis S.W. Crampton, Town Council Member

ATTEST:

Bobbie Lindsay, Town Council Member

Pat Gayle-Gordon, Town Clerk

Margaret A. Zeidman, Town Council Member

EXHIBIT “A”

Town Public Works Right of Way Manual

Chapter XII, Miscellaneous Provisions

Construction Parking & Construction Site Management

Construction parking on public streets and construction site management shall be controlled in order to protect the public's health, safety, and welfare. The rules and procedures outlined below are commonly referred to as the Town's "3-Strike Rule".

All vehicles belonging to personnel working on or visiting a construction site from the date of the issuance of a building permit, to the date of the issuance of the certificate of occupancy, shall be parked on the construction site at all times. If the site cannot accommodate such vehicles, then the contractor may initiate car and/or truck pooling, apply for up to, but not more than, three (3) right-of-way permits for parking construction vehicles on the street in front of the construction site or, utilize both options in order prevent unnecessary congestion adjacent to the construction site.

The following rules and procedures shall govern the 3-Strike Rule:

1. Owner/contractor may apply for up to, but not more than, three (3) right-of-way permits for the temporary parking of construction-related vehicles.
2. Contractor will be asked if right-of-way parking permits are anticipated at time of initial building permit application. If anticipated at that time, or any subsequent time, a parking plan must be provided on an application form as prescribed by the Town, at a legible scale, as determined by the Town which clearly illustrates the entire construction site.
3. Applications must include a notarized signature from the property owner acknowledging understanding of the 3-strike rule in its entirety. A notarized power of attorney signature will be accepted by the Town, provided it specifies that the owner has been personally informed of the entire 3-strike rule.
4. The Public Works Department will review all such applications upon payment of the following fee(s) (see Appendix C). Public Works shall determine whether or not to approve the application, and if approved, whether 1, 2, or 3 right-of-way permits are issued.
5. The contractor must apply for a permit(s) from Public Works within seventy-two (72) hours in advance of the short-term use of the public right-of-way. Only extreme extenuating circumstances will be considered otherwise.
6. As a condition of approval, contractor is required to provide the Town with tag numbers of all vehicles authorized by the contractor to work at the site and is responsible for updating for any reason that may cause a change in the tag number list for a job site. The Director of Public Works or the Director's designees, which may include code enforcement officers, parking enforcement officers, and police officers, are authorized to enforce all "3-strike rule" provisions and to issue citations for violations of these provisions. Parking permit must be displayed on the dashboard of the vehicle. Failure to comply will result in a strike.
7. Owner/contractor must designate a private employee to act as a traffic monitor at each site to enforce Town rules when on-street construction parking is allowed. The traffic monitor must be present whenever work is occurring. Failure to do so constitutes a strike.

8. If the Town finds that there is no dedicated traffic monitor at a construction site, all right-of-way permits shall be immediately revoked and one (1) strike will be assessed.
9. When car or truck pooling is utilized, no substitute on-street parking spaces in the Town can be utilized for said purpose. Failure to comply will result in a strike.
10. Worth Avenue right-of-way permits shall be limited to two (2) vehicles for purposes of loading or unloading and for essential construction activities. Parking of construction vehicles that are not actively involved in the loading and unloading process will not be permitted. Failure to comply will result in a strike.
11. Only original Town-issued permits are valid. Permits may be transferred between vehicles but are valid only for the construction site for which they are issued. Failure to comply will result in a strike.
12. Copying, forging or duplication of a right-of-way permit is prohibited. All right-of-way permits will be immediately revoked if the Town determines that duplication or abuse has occurred.
13. Additional permits may be issued for the three (3) week period prior to the estimated date of issuance of the certificate of occupancy in the event said vehicles cannot be accommodated on site. The number of permits granted shall be determined by the Director of Public Works, or his designee.
14. Property owners and their contractors shall be responsible for the implementation, installation, and maintenance of all required demolition and construction screening, perimeter landscaping, screening of on-job toilet facilities, following the truck logistics and staging plan, and any and all site conditions required by Chapter 18, Buildings and Building Regulations, including Sections 18-2 (Landscaping; maintenance where used for screening), 18-3 (On-job toilet facilities, required), 18-86 (Construction staging and truck logistics plan), 18-111 (Compliance with the Town's right of way manual), and 18-201 (Construction screening). Any Town-documented lack of the required item(s) or lack of maintenance of the item(s) will constitute one (1) strike, and the Town will concurrently prosecute the violation(s) through the Code Enforcement process.
15. Property owners and their contractors shall be responsible for compliance with NFPA 1, Chapter 16, Safeguarding Construction, Alteration, and Demolition Operations and all provisions found in NFPA 1, Chapter 16. In addition, property owners and their contractors shall be responsible for compliance with the Town of Palm Beach Code of Ordinances, Chapter 38, Emergency Services, Section 38-35, Contractor Activated False Alarms. Any Town-documented violation of these codes or sections will constitute one (1) strike, and the Town will concurrently prosecute the violation(s) through the Code Enforcement process.
- 14.16. Property owners and their contractors shall be responsible for compliance with the noise regulations and the hours for construction work, found in Chapter 42, Environment, Sections 42-197 through 42-199. Any Town-documented violation of these sections will constitute one (1) strike, and the Town will concurrently prosecute the violation(s) through the Code Enforcement process.
- 15.17. Failure to comply with the aforementioned conditions may result in the suspension, fines, or in the case of repeat offenses, the cancellation of the violator's building permit.
- 16.18. Penalty for parking in the right-of-way in violation of this section shall be \$150 per day/per vehicle for the first offense, \$250 per day/per vehicle for the second offense, and \$500 thereafter.

~~17.~~19. Said penalty may be appealed in writing within seven (7) calendar days of the date of issuance to either the Chief of Police, Fire Chief, or the Director of Public Works (dependent upon the Department issuing the ticket), who shall, thereafter, act on said appeal. If the appeal is upheld, then the 1st, 2nd, or 3rd strike, as applicable, shall be removed from the record. Construction may continue until the appeal has been acted upon.

~~18.~~20. When a 3rd strike has been issued, and if an appeal is denied or is not filed in timely fashion, the Planning, Zoning & Building Department shall issue a Stop Work Order halting all continued activity at the site.

~~19.~~21. All requests to lift the stop work order must be decided by the Town Council, upon written application to the Planning, Zoning & Building Department, no less than seven (7) days prior to a regularly scheduled monthly Town Council (Development Review) meeting.

~~20.~~22. The Town Council shall have the power to admonish the contractor; take such action as deemed necessary to effect the stop work order on a permanent basis by nullifying the existing building permit; cause the contractor and/or property owner to enter into a binding agreement to memorialize the understandings between the Town and the contractor and/or property owner relative to all conditions placed upon the lifting of the stop work order, if applicable; establish penalties for future right-of-way violations the amount for which shall be in the sole discretion of the Town Council; and/or collect any unpaid penalties.

~~21.~~23. If a Stop Work Order is lifted, no additional right-of-way permits for the duration of the work in question shall be issued unless specifically approved by the Town- Council.

All vehicles belonging to personnel working on or visiting a construction site from the date of the issuance of the permit, to the date of the issuance of the certificate of occupancy, shall be parked on the construction site at all times. If the site is limited, then the contractor must initiate "car and/or truck pooling." A site plan may be required to illustrate that the site is being fully and efficiently used for construction material storage and parking. Additionally, contractor is required to provide to the Town the tag numbers of all vehicles authorized by the contractor to work at the site. The Director of Public Works or the Director's designees, which may include code enforcement officers, parking enforcement officers, and police officers, are authorized to enforce the provisions of this paragraph on construction parking and to issue citations for violations of these provisions.

All contractor's equipment shall be parked on the construction site. If the contractor cannot park his/her equipment on the site, or in the event all vehicles described herein cannot be parked on the site, a right-of-way permit will be required to park said equipment or vehicles in the public right-of-way. The contractor must apply for a permit or permits from the Public Works Director within seventy-two (72) hours in advance of the short-term use of the public right-of-way. (Only extreme extenuating circumstances will be considered.)

Parking permits will be issued for Worth Avenue for up to two (2) vehicles for purposes of loading or unloading and for essential construction activities. Parking of construction vehicles that are not actively involved in the loading and unloading process will not be permitted.

Parking permits for other areas in the Town will be issued for up to three (3) vehicles to park within the rights-of-way in the event it is determined that said vehicles cannot be accommodated on site. In addition, one permit shall be provided to the owner of the property. Only original permits are valid, no copies are allowed. Permits may be transferred between vehicles but are valid only for the construction site for which they are issued. Additional permits may be issued for the three (3) week period prior to the issuance of the

Certificate of Occupancy in the event said vehicles cannot be accommodated on site. The number of permits granted shall be determined by the Director of Public Works.

Failure to comply with the aforementioned conditions may result in suspension, fines, or in the case of repeat offenses, the cancellation of the violator's building permit. Penalty for parking in the right-of-way in violation of this section shall be \$150 per day/per vehicle for the first offense, \$250 per day/per vehicle for the second, and \$500 thereafter. Said penalty may be appealed in writing within seven (7) calendar days of the date of issuance to the Chief of Police, Fire Chief, or the Director of Public Works (dependent upon the Department issuing the ticket), who shall act on said appeal. If the appeal is upheld, then the 1st, 2nd, or 3rd strike, as applicable, shall be removed from the record. Construction may continue until the appeal has been acted upon.

Once a contractor has accumulated three (3) violations or "strikes" at a single site that have either exceeded the appeal period or the appeal(s) have been adjudicated in favor of the Town, as described in the Town Right of Way Manual, the Director of Planning, Building, and Zoning (PZ&B) shall have issued a "stop work" order as allowed in Section 18-204 of the Town Code.

If after issuing the stop work order and reviewing the case, the Director of PZ&B concludes there are no mitigating circumstances that caused the contractor to receive any of the three (3) strikes, the Director of PZ&B must forward the matter to the Town Council at their next available meeting should the contractor and/or the property owner request in writing that the Town Council give consideration to lifting the stop work order.

If after issuing the stop work order and reviewing the case, the Director of PZ&B is convinced that mitigating circumstances caused the contractor to receive any one of the 3 strikes, the Director of PZ&B may waive that strike causing the contractor to have 2 strikes, but only upon payment of a fine of \$250, plus payment of any outstanding right-of-way fines, accumulated interest, and subject to the Director of PZ&B being satisfied that there will be strict future compliance with the Town regulations and/or the Right-of-Way Manual by the contractor at the job site in question. Periodically, as often as determined appropriate by the Town Manager, the Director of PZ&B shall provide a report to the Town Manager delineating the mitigating circumstance(s) that gave cause for him or her to remove a strike incurred by a contractor under this section.

If there is another strike received by the contractor on the same job site that results in a total of 3 or more strikes at a given job site, the Chief of Police, Fire Chief, or the Director of Public Works (dependent upon the Department issuing the ticket) will notify the Director of PZ&B of the situation upon passage of the time allowed for appeal. The Director of PZ&B must suspend the work activity on the site via issuance of a "stop work" order as allowed in Section 18-204 of the Town Code, subject to reinstatement only by application of the building permit applicant to the Town Council at their next regularly scheduled meeting.

When the Town Council receives a written request to lift a stop work order the Town Council shall have the power to admonish the contractor; take such action as deemed necessary to effect the stop work order on a permanent basis by nullifying the existing building permit; cause the contractor and/or property owner to enter into a binding agreement to memorialize the understandings between the Town and the contractor and/or property owner relative to all conditions placed upon the lifting of the stop work order, if applicable; establish penalties for future right-of-way violations the amount for which shall be in the sole discretion of the Town Council; collect the "3-strike" fine as outlined below, plus payment of any outstanding right-of-way fines and accumulated interest, as referenced herein below and to prohibit the issuance of any additional right-of way permits for the duration of the work in question.

The fine for a third (3rd) strike shall be \$500; the fine and penalty for a fourth (4th) strike shall be a fine of \$2,500 and a mandatory thirty (30) day shutdown of the construction project; the fine and penalty for a fifth strike shall be a fine of \$5,000 and a mandatory thirty (30) day shutdown of the construction project, plus payment of any outstanding right of-way fines and accumulated interest unless the Town Council chooses to invoke the use of a binding agreement memorializing a penalty structure to be paid to the Town for all future right-of-way violations in excess of three (3) to be paid in accordance with the terms and conditions of the binding agreement between the Town and the contractor and/or property owner. All fines and penalties shall be paid in full prior to issuance of a Certificate of Occupancy for the construction associated with the activity that generated the fines, penalties, and interest.

Before issuance of a building permit, a Power of Attorney or notarized owner's signature is required as the owner's acknowledgement of the "3 strike" rule.

TOWN OF PALM BEACH

Town Council Meeting on: January 10, 2023

Section of Agenda

Board/Commission Annual Report

Agenda Title

Annual Report of the Recreation Advisory Commission

Presenter

Nicholas Coniglio, Chair

ATTACHMENTS:

- ▣ **Recreation Advisory Commission Annual Report**

TOWN OF PALM BEACH

Information for Town Council Meeting on January 10, 2023

To: Mayor and Town Council

Via: Kirk W. Blouin, Town Manager

From: Nicholas Coniglio, Recreation Advisory Commission Chairperson

Re: Recreation Advisory Commission Annual Presentation

Date: January 3, 2023

GENERAL INFORMATION

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

Commission Membership/Meetings
COVID Response
Par 3 Golf Course
Tennis Operations
Morton and Barbara Mandel Recreation Center

Commission Membership/Meetings

The RAC is comprised of seven regular members. Each member serves a three-year term, with a chairperson and vice-chairperson selected as necessary. The Commission held three regular meetings in the calendar year 2022 (February, May, and October). The current Commission membership is as follows:

Commissioner	Position	Term Expires
Nicholas Coniglio	Chair	4/23
Grier Pressly	Vice-Chair	4/25
Millie Dayton	Regular Member	4/25
Peter Harris	Regular Member	4/23
Henry 'Budge' Jamison	Regular Member	4/25
David Missner	Regular Member	4/23
Susan Watts	Regular Member	4/24

Mrs. Dayton and Mr. Missner were the only new appointments to the Commission in 2022. Mr. Missner's appointment was in July 2022, to complete the term vacated by Ms. Schonwald Vila.

COVID-19 Response

Covid-19 continued to affect the operations of the Recreation Department in 2022. The Recreation Advisory Commission was kept abreast of the programmatic modifications required due to the ongoing challenges of the pandemic. The impact was particularly felt at the Mandel Recreation Center, with many residents still concerned about indoor activities, especially in the year's first half. Overall, the department performed exceedingly well and had participation and revenue records in all areas.

Par 3 Golf Course

It was an exceptional year in every way for golf operations. Lessons, shop sales, rounds, and the restaurant were all up in a big way. The Palm Beach Par 3 has become a leading golf destination in South Florida. FY21 was by far a record-breaking year with 52,000 rounds of golf and \$3.6M in revenue. Staff was up for the challenge in FY22, as the course finished with 54,000 rounds and more than \$4.4M in revenue!

Shop sales were at an all-time high in FY21 with \$420K in sales, but in FY22 they hit \$675K! Kudos to Tony Chateauvert and Sabrina Gordon, their efforts to improve the appearance and selection of apparel and offerings at the shop led to the shop winning the SFGA Merchandiser of the Year Award for the entire south Florida Section! The teaching program also had a brilliant year. Gene George, Bob Hite, Tim McCoy, and former Tour player Trevor Dodds have all had incredible years, which resulted in the highest-grossing year in lessons ever.

Superintendent Tim Campbell and his staff did an incredible job in keeping the course in outstanding condition. Starting in May, the course was closed for maintenance on Tuesday mornings to allow staff to work on the golf course without interfering with golfers. In addition, the course was closed for aerification and DryJecting three times during the summer and early fall. The result has been remarkable with greens and tees being in excellent condition despite the huge volume of play.

Staff received approval from Town Council to add eight additional parking spots to the course to help ease the parking crunch due to the popularity of the course and restaurant. Work on adding the eight additional spots is expected to start and be completed in May 2023.

Outstanding course conditions are a priority at the Par 3, and the members of the Recreation Advisory Commission have provided input on several aesthetic and practical applications that have been put in use. Additionally, janitorial and clubhouse services remain highly important, and staff is constantly working to improve the experience for guests.

Some notable improvements to the golf operations this year:

- A new fleet of carts was delivered in December 2022.
- The clubhouse bathrooms were renovated in late fall.
- New cart path was put in along #14 (oceanside) that provides a much more scenic route, and it opens up the view of the green.
- New gutters were installed on the exterior of the clubhouse.
- Concrete work was completed on the patio.
- California Closets installed two desks in the secondary office, allowing two staff members to work in the space and even allowing the opportunity to checkout patrons as a third station during hectic periods.
- A new online shopping feature was added to the golfontheocean.com site.
- Rick Shiel of YouTube prominence posted a video calling the Par 3 the ‘World’s Best Par 3’, the 21-minute film already has over 576k views.
- Youth on Course, an organization that promotes junior golf held a clinic at the Par 3 that featured Rory McIlroy and was filmed by the Golf Channel.
- Al Fresco remains a favorite dining destination for residents and guests alike as they did over \$6M in sales, which was an all-time record

Seaview and Phipps Ocean Park Tennis Centers

The Town’s tennis resurgence continues with many residents returning to their love of tennis or discovering/rediscovers the high-quality courts. Residents represented 72% of players, 62% of juniors, and 84% of adults. This past year also saw a continuation of a few events, notably the Town of Palm Beach Championships - doubles, singles, and mixed doubles in January, February, and April, respectively. In addition, a full slate of teams (six) is again representing the Town, including two senior league teams. The Town has added Pickleball to the activities list, incorporating lessons, clinics, and open play.

Revenue was at an all-time high in FY22 hitting over \$539k, representing an increase of 54% over the FY21 record of \$348k. Teaching revenue from the contract with DM Tennis Enterprises was up over 27% from the previous year - a new revenue high. Participants and residents continue to provide positive feedback about the quality and professionalism of the instructor team, pro-shop staff, and the excellent playability of the courts.

Daily court maintenance continued to be a priority for in-house staff and contractors to keep the courts in excellent condition. With the increase in play, maintenance staff have been challenged, but responded well and worked diligently to limit downtime. Projects of all sizes were completed at both tennis centers to enhance the playability and welcoming nature of the tennis centers, including:

- Staying on top of routine items to limit court downtime:
 - adding clay, replacing lines, net post maintenance, net repairs, windscreen maintenance, edges being scraped and re-conditioned, and gate repairs
- Irrigation enhancements
- Landscape beautification

- New tables and chairs at Phipps have been installed
- Both pro-shops received a refresh and expanded lines of apparel with a new logo introduced
- New player benches at Phipps Ocean Park Tennis
- New windsocks at Seaview Tennis
- Pickleball lines installed on Seaview Tennis Court 7

Morton and Barbara Mandel Recreation Center

Even with program participation somewhat limited due to Covid-19, revenue for the Mandel Recreation Center broke the record set last year by 45%, with total revenue exceeding \$821k. The Fitness Center sold a record 347 memberships, representing a 25% increase over FY21. Youth Enrichment revenue increased by over 29% and passes and daily admissions increased by 11%. The Mandel Recreation Center offered 214 programs through FY22. The ever-popular After School Program welcomed 30 participants each day. Camp Palm Beach was back to full capacity as 75 kids were welcomed each week of the ten-week camp.

There was a considerable demand for team sports this past year. Fall Soccer with Select Soccer Academy filled up the youngest age group and two age groups filled up in the Youth Basketball League with Perseverance Basketball. Tot Tumbling and Gymnastics are always popular and ran their programs at capacity. Story Time Soccer, Lacrosse, and Flag Football were also a hit.

Some additional highlights from 2022:

- Staff put on the annual Spring Celebration that over 200 residents enjoyed.
- Halloween Happenings event had great participation, with over 250 residents.
- The Mandel's Grand Opening 2.0/Navy SEAL event held on March 5th was a huge success enjoyed by over 500 people.
- Earth Day was held on April 22, and over 200 community members participated, including presentations from Palm Beach Public and Palm Beach Day Academy students.
- A sound and portable mic system were added to the Smith Family Fieldhouse.
- Palm Beach Rush, a competitive soccer program for ages 8-12, began training at the Mandel Recreation Center in late August and has been met with excitement.
- The RecConnect publication continues to go out weekly to keep everyone informed of the schedule and happenings around the Mandel and the rest of the Recreation Department. The publication currently reaches over 2,000 inboxes weekly.
- Acoustical paneling was added in the Fieldhouse, After School Room, and Game Room.
- New tables were installed in the classroom; they have a much more professional look with the ability to be flexible with use since all the tables are on wheels.
- The billiard table in the game room was recovered in September.
- There are now almost 2,000 followers on Instagram, be sure to follow [townofpalmbeachrecreation](#) on Instagram and/or Palm Beach Recreation Department on Facebook
- For the second year in a row a \$10,000 gift was received from the Friends of Recreation to cover up to \$500 for each employee who registered their child for a week of summer camp. This was well received by employees and the funds were fully exhausted.

- The Palm Beach County City Managers hosted their monthly meeting at the Mandel in September, with over 25 representatives from city managers' offices across the county.
- The Palm Beach Civic Association hosted an election event for the candidates on October 18, 2022 in the fieldhouse.

Conclusion

Overall, the members of the RAC, in conjunction with the Department, had a very productive year and are looking forward to an exciting 2023. The RAC and Department staff are optimistic about the future and ready to capitalize on any opportunities which come our way; no one is resting on their laurels. We are just getting started!

cc: Recreation Advisory Commission
Carolyn Stone, Assistant Town Manager
Mark Bresnahan, Director of Recreation
Ryan Reckley, Assistant Director of Recreation
Tony Chateauvert, Golf Manager
Faika Fareau, Administrative Assistant

TOWN OF PALM BEACH

Town Council Meeting on: January 10, 2023

Section of Agenda

Committee Reports

Agenda Title

Report of the Ordinances, Rules and Standards Committee Meeting Held on November 17, 2022

Presenter

Julie Araskog, Chair

ATTACHMENTS:

- ▣ **November 17, 2022, ORS Meeting Report**



TOWN OF PALM BEACH

Town Manager's Office

REPORT OF THE ORDINANCES, RULES AND STANDARDS COMMITTEE MEETING HELD ON NOVEMBER 17, 2022

I. CALL TO ORDER AND ROLL CALL

The Ordinances, Rules and Standards Committee meeting of November 17, 2022 was called to order at 9:30 a.m. by Chair Araskog. On roll call, all committee members were found to be present.

II. PLEDGE OF ALLEGIANCE

Chair Araskog led the Pledge of Allegiance.

III. APPROVAL OF AGENDA

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

IV. COMMUNICATIONS FROM CITIZENS

There were none.

V. REGULAR AGENDA

A. Old Business

1. Native Landscaping Regulations – Further Review by ORS Committee
Wayne Bergman, Director of Planning, Zoning and Building

Chair Araskog gave an update regarding the length of time between the last meeting earlier this year and today's meeting which was due to changes in staffing as a result of Deputy Town Manager Boodheshwar leaving the Town and the cancellation of the October meeting due to the Preservation Foundation not being informed of the meeting.

Wayne Bergman, Director of Planning, Zoning and Building gave a historical update regarding changes to Chapter 66, Natural Resource Protection. He stated that in November 2021 Ordinance No. 024-2021 was adopted to: raise the percentage of required native plantings from 25% to 35%; calculate percentages on the actual number of plants [categories created]; reference the Institute for Regional Conservation (IRC), Natives for your Neighborhood, as the sole list of native plants; and use the listing of invasive plants from the Florida Invasive Plant Species

Guide (FLIP). Director Bergman stated that since the adoption of the Ordinance there have been questions about the native landscape requirements. He stated that the new regulations mandate 35% of natives for the categories of trees, palms, shrubs and vines/groundcover and that there is the possibility of removing palms as a category. He pointed out that coconut palms are not native to the area. He reported that landscape designers expressed that the 35% minimum requirement seems excessive. He discussed the advantages of shade trees: they enhance the streetscape, provide shade for buildings and yard areas, and help to diminish the heat effect from hardscape.

Member Cooney inquired from Director Bergman how the changes were affecting the department regarding administering the program. Director Bergman stated that they have contracted a Landscape Architect to review the landscape plans for natives.

Amanda Skier, President and CEO, Preservation Foundation of Palm Beach stated that when they advocated for using the Institute for Regional Conservation (IRC) list it was not their intent to limit it to the 33480 zip code, but that they actually offered to fund a special Palm Beach list. The Preservation Foundation is advocating for using the IRC list for the entire state of Florida, not just the 33480 zip code.

Amanda Skier read a letter from Raymond Jungles introducing George Gann, [Founder, President and Chairman of the Board of the Institute for Regional Conservation] and the work that he does. George Gann then spoke regarding native plants in the state of Florida. He stated that he has over 45 years of experience with native plants, gardening, and restoration. He gave a presentation about the benefits of native plants, native plant lists in Florida, advantages of Natives for the Neighborhood, and recommended that the Town continue using the IRC list for native plants.

Chair Araskog inquired of Mr. Gann as to what a compromise might be to expand the list as the landscape architects have requested who have been upset but to also follow the Council's intent on trying to help the environment in trying to set an example and for our ecological system.

Mr. Gann suggested the Town go back as Amanda Skier recommended to make a list that is specific to our Town that would build off of the 33480 list. He explained that on all native lists there are 700-800 species and that is just too much. He stated that having so many options is difficult because those using them just do not know where to start or have the time to research them all. For those reasons he believes that there is a problem with making the list too big and the knowledge base to use it is overwhelming even for him despite his tons of experience. He stated that only 20 to 30 species outside of the 33480 zip code need to be added. He gave some examples from the South that could be added and that the professionals had discussed that they use here. His recommendation is to identify what those are and create a special list for the Town.

From a regulatory administration perspective, he explained that there is no South Florida list, but you could use the FISS list which is another list, but he would need to think about it. He reiterated that having a Town_specific list is best.

Araskog asked how far Preservation had gotten on the list. Amanda Skier said they would be happy to continue working on it. Araskog asked how long it would take to complete a list and to get input from the professional community. Amanda Skier stated that she did send an email out earlier in the year to the landscape architecture community inviting them to provide a list of plants and did receive one answer from Steve West.

Amanda Skier's recommendation on the best way to start is to invite everyone from the landscape architecture community to submit the natives that they use regularly that are not currently addressed in the current list, but could not identify the amount of time needed as it would depend on the level of participation.

Araskog asked if it would be possible to use the South Florida IRC list until this list is developed. Amanda Skier suggested opening up the statewide list for now until the list is developed. Mr. Gann had no opposition to that recommendation.

Mr. Gann explained Natives for your Neighborhood is intended to encourage people, but not to be a regulatory tool. He recommended using the broader list with a focus on educating and encouraging people to use the 33480 list to the extent that they can. In his opinion that is actually a better way forward and it is best to give people a lot of latitude while still having boundaries. He recommended workshops for education purposes and stated that people who are using the Natives for Your Neighborhoods and the zip code lists are reporting back that they consider things they have never considered before and if you can do that freely and voluntarily and you can be excited about that then it is a much better result than too stringent a regulation that forces people to take action that they do not want to take. Mr. Gann stated that if the ordinance could be broadened and have as part of the process internally somehow or in collaboration with the community the creation of a mechanism to encourage people to use 33480, that is the best of both worlds and avoids the pitfalls of going to another list or other alternatives.

Mr. Cooney asked on a broader and philosophical basis that shifted the dynamic to encourage natives is a positive thing for our community to be aware of, but the balance we have to strike to advance these causes, while not changing the feel of our community where the residents live and love. How do we balance this in the long-term advancing the goals while still maintaining our manicured look?

Mr. Gann agreed. He believes we need to provide people with the tools that they are comfortable with like giving a list of what to replace say ficus hedges with natives, but not clusia. He also discussed different natives that can be manicured and expressed his recommendation that we come up with a broader list that incorporates the information from all the professionals. He stated that we should remember at 35%, there is still 65% to work with that is non-native. He does agree that there are few native palms and moving the palms in with the trees or shrubs is worth talking about because of the limited palette.

Mr. Sanchez stated that we need to respect and acknowledge the cultural heritage of the more manicured gardens.

A discussion ensued on all the education in the community and how people are changing and focusing on the environment and natives.

There also was a question about natives and the chemicals. Mr. Gann explained that some natives struggle and when they are stressed, they will be attacked by pests. The key is finding a way to not stress the plants out. You can have a native and put it in the wrong place and it will get attacked. Sometimes when things look bad, they are not ecologically bad but are aesthetically bad. He stated that the list needs to be filtered to what is appropriate.

He supported stakeholder engagement and all sources of knowledge- including local knowledge of the community- to be brought together through a process like Amanda is talking about so the problems others are facing will go away if we want to have thoughtful answers and get real solutions.

Exotics were discussed in regard to the best list. Mr. Gann recommends the list that the state of Florida uses for its exotic management is Florida Invasive Species Council. It was pointed out that FLIP ended up in our ordinance, but it was a scrivener's error.

Jorge Sanchez, Palm Beach resident, spoke in support of Florida native plants. Mr. Sanchez stated that he is anti-pesticide, but that sometimes pesticides must be used. He stated that white fly attacks natives and he believes in spot spraying. He stated he is all for natives in the right habitat and of his history with natives.

Mr. Sanchez spoke of the importance of the history of Palm Beach and its landscape history. He stated that Palm Beach is spoken of in the world as the envy of gardens. He stated that two things make gardens magnificent: first, private citizens historically have been able to do whatever they want and second, they have the funds to do it. He stated that he cannot think of another community where that duo is available. He spoke of his work in hoping to stop Ficus Benjamina and he is now totally against stopping its use. He stated that he is against all regulations put in place three years ago and wants to go back to the Palm Beach he grew up in. He stated that historically what we have tried to preserve is the ability of Palm Beachers to create some of the finest gardens in any community. He believes our laws are so severe that they have gone from being free until three years ago to being absolutely governed by the Town of Palm Beach. He spoke of natives needing maintenance too. He stated he spoke to all the landscape architects and believes 25% is too much, but suggested that if we are going to placate that tiny little group of fanatics then make it 25% with no categories and with Florida Natives and Florida Friendly.

In response to a question from Member Cooney, Mr. Sanchez discussed the challenges with using the 33480 list and needing more choices. He spoke of his issue with the requirement in each of the categories.

Chair Araskog recommended that the landscape architects and Preservation meet

to come up with solutions together and find a compromise. She recommended that Wayne explain the issues we had when we were just using a percentage and not categories. She also discussed the Keys and other areas that have 70%.and much more than we do.

Mr. Bergman discussed the issues before the new ordinance that designers would propose only one type of material to be used in their project and the other problem was that design professionals are all over the world and were using whatever native list they could find and staff had a hard time determining what was native.

Mr. Sanchez stated that Council's responsibility is to speak for the whole town and to respect Palm Beach's history and not change it.

There was a discussion Mr. Cooney directed about smaller lots with limited planting areas, the challenges of meeting all of the categories, and the issue of one size fits all regulation.

Jenny Parker, 215 Jamaica Lane, spoke regarding native plants and pesticides. She spoke of removing Ficus Benjamina and being concerned as a private citizen that she could not put Podocarpus in due to the regulations. She would like to do what she wants. There was a discussion and clarification that if Ficus Benjamina is removed, we do not require the 25% native. She stated that it is better to encourage and educate on the use of natives and pesticides, but not regulate her private property rights.

Mr. Bergman and Chair Araskog explained that only the area of landscape being changed is under the 35% [native requirement] and that the categories are not required. It was also clarified that substantial landscape changes require an ARCOM approval, which has been in effect for years.

Brian Vertesch, SMI Landscape Architecture, spoke regarding Florida native plants – categories and percentages and how the overall math works out. He feels opening the list up all Florida Natives that will go a long way to make the landscape architect community feel much better along with some of the other points Mr. Sanchez raised.

Chair Araskog recommended one more meeting but would take a motion on the list. Member Cooney stated he spoke to people in the Landscape Architect community, but they do not have the time to be here. Chair Araskog was only comfortable going forward with the list.

Member Cooney explained the reason for his dissenting vote regarding raising the percentage of required native plantings from 25% to 35%. He stated that he would be agreeable to the following: revert to the 25% required native plantings and living with it to have a trial period to see if it is the right number. He also supports expanding the IRC list to encompass the entire state of FL and removing all categories. Member Cooney stated that his experience looking at Landscape plans for years is that one size does not fit all and meeting a strict threshold in categories is easy to do in some places and hard to do in others despite his desire for

biodiversity. Chair Araskog stated she would be agreeable to reversing to 25% if all the categories remained, but for 35% if the categories were removed, but would need to require some diversity. Chair Araskog agreed with the opening up the list. She recommended having another meeting in February after Preservation and the Landscape Architects have a chance to discuss it. She also supported meeting earlier in the morning if it would bring more participation with the landscape professionals.

Member Cooney stated that not all Landscape Architects are on the same page with the percentages they support.

Member Cooney stated that his mind would not change. Chair Araskog stated she would like to hear their opinions even if it is via email on going to 35% without categories but with some diversity or 25% with categories. She would like to have one more meeting and to have Preservation Foundation in the interim meet with or email with the Landscape Architects.

Kit Pannil, 4 S. Lake Trail, spoke in opposition to the 35% native plants requirement and we should do 25 %.. She spoke of the fact that her garden would not fit these regulations and that people come from all over to see her gardens > She stated that she doesn't even know if there are any natives in her garden. Mrs. Pannil then stated that people should be able to do whatever they want.

The committee agreed to bring this matter to the Town Council meeting in January, 2023.

2. Maximum Landscape Height of Buffers and Separation Distances Between Landscape Buffers and Neighboring Buildings

Wayne Bergman, Director of Planning, Zoning and Building

Chair Araskog stated that she had a discussion with Director Bergman regarding changes to the current Ordinance. After discussion, the committee agreed to make revisions to Ordinance No. 007-2022 and return with the revised version to the next meeting.

B. New Business - None

VI. ANY OTHER MATTERS

Chair Araskog inquired about the revisions to the Noise Ordinance. Ben Alma, Parking/Code Enforcement Manager explained that the Town Code was revised to reflect the changes to the Ordinance and there was an agreement with the specific hotel in the south end of Town to no longer hold certain events. Chair Araskog suggested hearing this issue at the February meeting. She also mentioned revisiting the prohibited Ficus plants which are causing the Whitefly infestation (as directed by Council for study). Bobbie Lindsay, 212 Caribbean Road, supplied the names of the Ficus plants in question.

It was agreed that Landscape Height, Noise, and Other Ficus plants will be discussed at the next meeting:

Pat Cooper, Palm Beach Civic Association, spoke regarding the Noise Ordinance.

VII. ADJOURNMENT

Motion was made by Member Cooney and seconded by Chair Araskog to adjourn the November 17, 2022 Ordinances, Rules and Standards Committee Meeting at 12:10 PM. On roll call, the Motion passed unanimously.

APPROVED

Julie Araskog, Chair

ATTEST:

Pat Gayle-Gordon, Acting Town Clerk

Date

TOWN OF PALM BEACH

Town Council Meeting on: January 10, 2023

Section of Agenda

Regular Agenda - Old Business

Agenda Title

Town-wide Undergrounding Project - Review of Project and Dashboard, Summary of Project Status

Presenter

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

ATTACHMENTS:

- ▣ **Memorandum dated December 27, 2022, from H. Paul Brazil, P.E., Director of Public Works**

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 10, 2023

TO: Mayor & Town Council
VIA: Kirk W. Blouin, Town Manager
VIA: Paul Brazil, Public Works Director
FROM: Patricia Strayer, Town Engineer
RE: Utility Undergrounding Project Status Report
DATE: December 27, 2022

I. COMMUNICATIONS:

A. Community Meetings:

None to report

B. Significant Residential Communications

Staff meetings for Phase 7 North and South are ongoing. Demonstration chicanes are installed in Phase 7 and are slowly progressing to eliminate these locations. Phase 8 easement meetings are ongoing. A second round of letters have been sent out to Phase 8 property owners. Letters were sent to properties in Phase 6 which are adjacent to right of way placement of equipment.

II. PROGRESS SUMMARY:

Overall, Town-wide construction progress, ten (10) of fifteen (15) construction zones are either complete or in progress/funded for construction, inclusive of Phases 1N, 1S, 2N, 2S, 3N, 3S, 4N, 4S, 5N and 5S. Phase 6 North and South are awaiting delivery of materials.

A. Construction Progress:

Phase 1 North:

From the Inlet south to Onondaga Ave.

- Completed March 30, 2019

Phase 1 South:

From southern Town limits north to Sloan's Curve

- Completed April 3, 2020

Phase 2 North Construction:

From Esplanade Way to Ocean Terrace

- Completed October 29, 2020

Phase 2 South Construction:

From Sloan's Curve to the intersection of S. Ocean Blvd & S. County Road

- Phase 2 South, the project is 96% complete. Presently working with FPL on final feeder switching. All conversions are complete. Paving is complete with some items to come back and correct after the new year. Poles will be removed in May due to crews being redirected by FPL to the west coast of Florida after Hurricane Ian. Landscaping of equipment is being completed.

Phase 3 North Construction:

From Osceola Way to the north-side of La Puerta Way

- Completed September 17, 2021

Phase 3 South:

From S. Ocean Blvd & S. County Road to the alleyway south of Worth Ave.

- Phase 3 South construction is 79% complete. Switching is beginning after the New Year.

Phase 4 North:

From south-side of La Puerta Way to north-side of List Road

- Construction for Phase 4 North is 91% complete. All equipment has been installed. Switching is being initiated by FPL. Comcast and ATT are working on equipment installation. Conversions of homes has begun.

Phase 4 South:

From Peruvian to Royal Palm Way

- Construction is 21% complete.

Phase 5 North:

From Country Club Road to Southland Road

- Design is 100% complete.
- 87 out of 87 (100%) easements are recorded or verbally approved.
- Notice to Proceed was issued September 27, 2021.
- Construction phase is 57% complete.

Phase 5 South:

From South Lake Drive/Hibiscus Ave. & Peruvian Ave./Royal Palm Way, properties between the intracoastal waterway and the Atlantic Ocean and from Royal Palm Way to Seaspray Ave.

- Design is 100% complete.
- 83 of 83 (100%) easements are recorded or verbally approved.
- Construction phase is 32% complete.

Phase 6 North:

From Chateaux Drive & Kawama Lane to the south-side of Plantation Road

- Design is 99% complete and on schedule.
- 47 of 47 (100%) easements approved.

Phase 6 South:

Seaspray Ave. to the south of Royal Poinciana Way

- Design is 100% complete and on schedule.
- 73 of 73 (100%) easements approved.

Phase 7 North:

Palm Beach Country Club north to the south side of List Road

- Design is 80% complete and on schedule.
- 58 of 80 (73%) easements approved.

Phase 7 South:

Atlantic Ave. north to Via Los Incas & Sanford Ave.

- Design is 81% complete and on schedule.
- 39 of 57 (74%) easements approved.

Phase 8:

Royal Poinciana Way north to Everglade Ave.

- Design is 29% complete and on schedule.
- 8 of 98 (8%) easements approved.

III. FINANCIAL SUMMARY:

A. FEMA Grant Update:

- Quarterly submittals are in for approval.

B. Project Budget Summary:

There are no significant changes since the last report. Updates include processing of vendor pay applications for design and work performed in active phases. The full Underground Utility Project Financial Report is provided within your backup package with the summary page attached. The table below shows the latest construction cost summary.

Phase Area	Construction Cost Proposal	Master Plan OPC	Difference	% Difference
3S	\$8,029,384.83	\$7,710,000.00	\$319,384.83	+4.1%
4N	\$4,843,009.99	\$5,360,000.00	(\$516,990.01)	-9.6%
4S	\$8,803,506.00	\$6,400,000.00	\$2,403,506.00	+37.6%
5N	\$7,347,435.31	\$6,960,000.00	\$387,435.31	+5.6%
5S	\$8,102,327.89	\$8,940,000.00	(\$837,672.11)	-9.4%
6N	\$7,867,296.00	\$5,620,000.00	\$2,247,296.00	+40.0%
6S	\$8,149,565.00	\$10,040,000.00	(\$1,890,435.00)	-18.8%
Totals	\$53,142,525.02	\$51,030,000.00	\$2,112,525.02	+4.1%

cc: Bob Miracle, Deputy Town Manager
Kevin Schanen, Kimley-Horn & Associates

**Underground Utility Project Budget
Project Financial Summary
December 31, 2022**

Expenditures	Original OPC	Dec 2019 OPC	Budget	Actual	% Expended
Phase 1	\$ 12,620,000	\$ 12,910,000	\$ 12,773,514	\$ 12,718,730	99.6%
Phase 2	\$ 9,170,000	\$ 13,470,000	\$ 13,348,040	\$ 13,482,698	101.0%
Phase 3	\$ 10,910,000	\$ 15,400,000	\$ 16,427,031	\$ 13,627,580	83.0%
Phase 4	\$ 10,370,000	\$ 15,220,000	\$ 18,026,163	\$ 10,125,514	56.2%
Phase 5 (Includes \$8.5 Million FEMA Grant Offset)	\$ 14,090,000	\$ 11,694,645	\$ 17,950,926	\$ 8,480,100	47.2%
Phase 6	\$ 16,820,000	\$ 20,800,000	\$ 19,966,261	\$ 3,174,143	15.9%
Phase 7	\$ 11,730,000	\$ 15,910,000	\$ 1,720,090	\$ 1,518,784	88.3%
Phase 8	\$ 12,300,000	\$ 14,500,000	\$ 1,446,577	\$ 557,770	38.6%
Total Project Costs To Date	\$ 98,010,000	\$ 119,904,645	\$ 101,658,603	\$ 63,685,321	62.6%
Other Costs Associated Directly with the Project (Page 8)	\$ 570,000	\$ 2,957,405	\$ 2,957,405	\$ 2,701,563	91.3%
Grand Total of Costs Related to Project	\$ 98,580,000	\$ 122,862,050	\$ 104,616,008	\$ 66,386,884	63.5%
Debt Service and Related Debt Issuance Costs (Page 8)			\$ 14,543,157	\$ 14,361,326	98.7%
Total Other Costs Outside Underground Budget (Page 8)			\$ 690,317	\$ 1,679,132	243.2%
Grand Total of All Costs Related to the Project	\$ 98,580,000	\$ 122,862,050	\$ 105,306,325	\$ 82,427,342	78.3%

Total Project Budget - Opinion of cost for construction	\$ 122,862,050
% Budgeted/Encumbered To Date Project Costs	85.15%
% Spent to Date - Project Costs	54.03%

Project Revenues Received

Revenues	Budget	Actual	% of Budget
Revenues			
Prepaid Assessments	\$ 18,329,914	\$ 18,329,914	0.0%
Assessment Revenue	\$ 25,280,000	\$ 24,045,469	95.1%
Commercial Paper	\$ -	\$ -	0.0%
Town Owned Property Prepaid Assessments	\$ 2,797,291	\$ 2,797,291	100.0%
Interest	\$ 1,667,009	\$ 3,648,912	218.9%
GO Bond Proceeds 2018	\$ 60,500,000	\$ 60,499,897	100.0%
GO Bond Proceeds 2021	\$ 9,198,896	\$ 9,198,896	100.0%
1 Cent Sales Tax	\$ 5,000,000	\$ 3,125,000	62.5%
FPL	\$ 450,246	\$ 450,246	100.0%
FEMA Grant	\$ 8,500,000	\$ 827,237	9.7%
Other			
Kevin McGann - CO #9	\$ -	\$ 34,900	0.0%
Donations - Civic Association	\$ 49,250	\$ 49,250	100.0%
Transfer from (307) Fund CIP	\$ 760,200	\$ 760,200	100.0%
Transfer from (401) Fund Marina	\$ 5,200,000	\$ 3,250,000	62.5%
Transfer from (001) General Fund - PM Salary	\$ 942,116	\$ 1,065,820	113.1%
Total Project Revenues	\$ 138,674,922	\$ 128,083,033	92.4%

Underground Utility Project Budget
Phase 1 Project Costs
December 31, 2022

	Original OPC	Dec 2019 OPC	Budget	Actual	% Expended
Project Engineering					
Task 2.1 - Detailed Design North End	590,000		472,063	472,063	100.0%
Task 2.2 - Detailed Design South End	740,000		619,411	619,411	100.0%
Task 2.3 - Permitting Assistance			17,790	17,790	100.0%
Task 2.4 - Bid Phase Assistance			42,166	42,166	100.0%
Task 2.5 - Meetings - Design Phase			125,399	125,383	100.0%
Subtotal Design Phase	\$ 1,330,000	\$ 1,280,000	\$ 1,276,829	\$ 1,276,813	100.0%
Construction Costs					
Phase 1 North Construction					
Preconstruction			\$ 19,720	19,720	100.0%
Burkhardt Construction			\$ 3,598,144	3,606,916	100.2%
Street Light Conversion			\$ 135,322	135,322	100.0%
Change Order for AT&T and Comcast Conduit			\$ 500,655	491,883	98.2%
Utility Design Costs			\$ 15,595	79,767	511.5%
Utility Construction Costs (FPL, Comcast, AT&T)			\$ 476,776	325,523	68.3%
Construction Engineering (KH)			\$ 207,771	205,818	99.1%
	\$ 4,210,000	\$ 4,930,000	\$ 4,953,984	\$ 4,864,949	98.2%
Phase 1 South Construction					
Preconstruction			\$ 22,200	22,200	100.0%
Whiting Turner Construction			\$ 4,450,977	4,518,572	101.5%
Utility Design Costs			\$ 33,013	119,725	362.7%
Utility Construction Costs (FPL, Comcast, AT&T)			\$ 1,374,193	1,250,395	91.0%
Construction Engineering (KH)			\$ 317,963	317,483	99.8%
	\$ 6,800,000	\$ 6,350,000	\$ 6,198,347	\$ 6,228,375	100.5%
Easement Recording Fees			\$ 740	740	100.0%
Legal Costs/Easement Acquisition - Jones Foster	\$ 280,000	\$ 350,000	\$ 301,359	\$ 306,723	101.8%
Legal Sketch and Description - Easements			34,000	33,215	97.7%
Easement Abandonment			\$ 8,256	5,120	62.0%
Legal Advertising				2,795	
Total Phase 1 Costs	\$ 12,620,000	\$ 12,910,000	\$ 12,773,514	\$ 12,718,730	99.6%

Underground Utility Project Budget
Phase 2 Project Costs
December 31, 2022

	Original OPC	Dec 2019 OPC	Budget	Actual	% Expended
Phase 2 Design					
Kimley Horn					
Task 1.1 Phase 2 North Design	335,000		\$ 281,304	\$ 281,304	100.0%
Task 1.2 Phase 2 South Design	400,000		\$ 335,353	\$ 335,353	100.0%
Task 1.3 Permitting Assistance North and South			\$ 12,674	\$ 12,674	100.0%
Task 1.4 Bid Phase Assistance North and South			\$ 40,565	\$ 40,565	100.0%
Task 1.6 Meetings North and South			\$ 136,617	\$ 131,510	96.3%
Total Phase 2 Design	\$ 735,000	\$ 807,000	\$ 806,513	\$ 801,406	99.4%
Construction Costs					
Phase 2 North Construction					
Preconstruction			\$ 35,000	31,970	91.3%
Burkhardt Construction			\$ 3,932,792	3,932,792	100.0%
Owner Purchased Supplies			\$ 83,073	253,631	305.3%
FPL Design Cost			\$ 11,759	34,936	297.1%
ATT Design Cost			\$ 5,000	\$ 10,000	200.0%
Comcast Design Cost			\$ 5,000	\$ 4,582	91.6%
Utility Costs (FPL, Comcast, AT&T)			\$ 496,307	\$ 423,898	85.4%
FPL - Additional Vista Switches			\$ 55,000	\$ 54,938	99.9%
Construction Engineering (KH)			\$ 248,121	\$ 246,227	99.2%
Total Phase 2 North Construction	3,800,000	5,020,000	\$ 4,872,052	\$ 4,992,974	102.5%
Phase 2 South Construction	-				
Preconstruction			\$ 35,000	87,667	250.5%
Burkhardt Construction			\$ 6,322,275	6,237,992	98.7%
Owner Supplied Materials			\$ 172,321	175,898	102.1%
FPL Design Cost			\$ 13,330	34,936	262.1%
ATT Design Cost			\$ 5,000	\$ 5,000	100.0%
Comcast Design Cost			\$ 5,000	\$ 4,582	91.6%
Utility Costs (FPL, Comcast, AT&T)			\$ 601,448	\$ 601,448	100.0%
Reimburse John Moran				\$ 39,240	
Construction Engineering (KH)	-		\$ 325,280	\$ 313,992	96.5%
Total Phase 2 South Construction	4,435,000	7,424,000	\$ 7,479,654	\$ 7,500,755	100.3%
Easement Acquisition/Abandonment	200,000	219,000			
<i>Kimley Horn Easement Assistance</i>					
Task 1.5 Easement Assistance North			\$ 64,936	\$ 64,935	100.0%
Task 1.5 Easement Assistance South			\$ 77,466	\$ 77,467	100.0%
<i>Surveys</i>					
Task 1.7 Legal Sketch North			\$ 14,020	\$ 14,020	100.0%
Task 1.7 Legal Sketch South			\$ 21,725	\$ 20,689	95.2%
Advertising			\$ 1,200	\$ 1,101	91.7%
Recording Costs			\$ 3,605	\$ 3,359	93.2%
Easement Abandonment			\$ 6,870	\$ 5,994	87.2%
Total Easement Acquisition Costs	200,000	219,000	\$ 189,822	\$ 187,564	98.8%
Total Phase 2 Costs	\$ 9,170,000	\$ 13,470,000	\$ 13,348,040	\$ 13,482,698	101.0%

Underground Utility Project Budget
Phase 3 Project Costs
December 31, 2022

	Original OPC	Dec 2019 OPC	Budget	Actual	% Expended
Phase 3 Design					
Kimley Horn					
Task 1.1 Phase 3 North Design	\$ 325,000		\$ 280,189	\$ 280,189	100.0%
Task 1.2 Phase 3 South Design	\$ 535,000		\$ 486,333	\$ 486,323	100.0%
Task 1.3 Permitting Assistance			\$ 13,739	\$ 13,739	100.0%
Task 1.4 Bid Phase Assistance			\$ 36,834	\$ 36,834	100.0%
Task 1.5 Meetings			\$ 77,411	\$ 76,626	99.0%
Total Phase 3 Design	\$ 860,000	\$ 895,000	\$ 894,505	\$ 893,710	99.9%
Construction Costs					
Phase 3 North Construction	\$ 3,700,000	\$ 5,300,000			
Preconstruction			\$ 24,580	\$ 24,580	100.0%
Construction - Burkhardt			\$ 4,100,697	\$ 4,100,697	100.0%
Owner supplied materials			\$ 2,797	\$ 3,456	123.6%
FPL Design Cost			\$ 12,850	\$ 2,700	21.0%
ATT Design Cost			\$ 5,000	\$ 5,000	100.0%
Comcast Design Cost			\$ 3,128	\$ 3,128	100.0%
FPL Construction			\$ 87,101	\$ 87,101	100.0%
Street Light Conversion			\$ 4,249	\$ 7,012	165.0%
Utility Costs (Comcast & ATT)			\$ 409,387	\$ 428,207	104.6%
Construction Engineering (KH)			\$ 236,976	\$ 224,829	94.9%
Daniella Construction - Nightingale/LaPuerta - Townwide portion			\$ 457,851	\$ 457,851	100.0%
FPL Nightingale/LaPuerta - Townwide Portion			\$ 85,796	\$ 85,796	100.0%
Comcast Nightingale/LaPuerta - Townwide Portion			\$ 8,885	\$ 8,885	100.0%
AT&T Nightingale/LaPuerta Townwide Portion			\$ 30,555	\$ 30,555	100.0%
Billing for Arnold Fisher relocate transformer Deanna Davis and Cohan			\$ (17,647)	\$ (17,647)	100.0%
Total Phase 3 North Construction	\$ 3,700,000	\$ 5,300,000	\$ 5,452,205	\$ 5,452,150	100.0%
Phase 3 South Construction	\$ 6,090,000	\$ 8,875,000			
Preconstruction			\$ 33,400	\$ 33,400	100.0%
Construction			\$ 8,029,385	\$ 5,611,276	69.9%
Owner supplied Pipe			\$ 153,809	\$ 138,366	90.0%
FPL Construction			\$ 562,000	\$ 562,905	100.2%
FPL Design Cost			\$ 11,359	\$ 17,159	151.1%
FPL - 101 El Brillo			\$ 10,875	\$ 10,875	100.0%
ATT Design and Construction Cost			\$ 425,000	\$ 5,000	1.2%
Comcast Design and Construction Cost			\$ 195,128	\$ 335,723	172.1%
Construction Engineering (KH)			\$ 322,540	\$ 234,226	72.6%
Total Phase 3 South Construction	\$ 6,090,000	\$ 8,875,000	\$ 9,743,496	\$ 6,948,930	71.3%
Easement Acquisition/Abandonment	\$ 260,000	\$ 330,000			
<i>Kimley Horn Easement Assistance</i>					
Task 1 Easement Assistance North and South			\$ 273,390	\$ 271,913	99.5%
Easement Amendment			\$ 49,285	\$ 49,198	99.8%
<i>Surveys</i>					
Recording Costs			\$ 6,000	\$ 5,137	85.6%
Easement Abandonment			\$ 8,150	\$ 6,542	80.3%
Total Easement Acquisition Costs	\$ 260,000	\$ 330,000	\$ 336,825	\$ 332,791	98.8%
Total Phase 3 Costs	\$ 10,910,000	\$ 15,400,000	\$ 16,427,031	\$ 13,627,580	83.0%

Underground Utility Project Budget
Phase 4 Project Costs
December 31, 2022

	Original OPC	Dec 2019 OPC	Budget	Actual	% Expended
Phase 4 Design					
Kimley Horn					
Task 1.1 Phase 4 North Design	\$ 402,000		\$ 312,317	312,317	100.0%
Task 1.2 Phase 4 South Design	\$ 413,000		\$ 451,284	451,284	100.0%
Task 1.3 Permitting Assistance			\$ 14,468	14,468	100.0%
Task 1.4 Bid Phase Assistance			\$ 37,899	37,899	100.0%
Task 1.6 Meetings			\$ 77,911	77,383	99.3%
Total Phase 4 Design	\$ 815,000	\$ 894,000	\$ 893,879	893,351	99.9%
Construction Costs					
Phase 4 North Construction	4,605,000	6,275,000			
Preconstruction			\$ 22,270	22,270	100.0%
Construction Costs			\$ 5,016,315	4,322,486	86.2%
Owner Supplied Pipe and Vaults			\$ 156,238	156,238	100.0%
FPL BCE			\$ 91,543	91,543	100.0%
FPL Design Cost			\$ 12,757	12,850	100.7%
ATT Design Cost			\$ 5,000	5,000	100.0%
Comcast Design and Construction Cost			\$ 173,151	3,128	1.8%
Utility Costs (FPL, Comcast, AT&T)			\$ 4,222	4,222	100.0%
Street Light Conversion FPL			\$ 324,309	270,059	83.3%
Construction Engineering (KH)			\$ 5,805,805	4,887,795	84.2%
Total Phase 4 North Construction	\$ 4,605,000	\$ 6,275,000	\$ 5,805,805	4,887,795	84.2%
Phase 4 South Construction	4,710,000	7,640,000			
Preconstruction			\$ 34,800	34,800	100.0%
Construction			\$ 8,803,506	2,049,943	23.3%
Construction with Lake Drive Park			\$ 320,311	363,499	113.5%
Owner Supplied Pipes			\$ 2,170	2,170	100.0%
Street Light Conversion			\$ 6,688	6,688	100.0%
FPL Design Cost			\$ 13,160	1,350	10.3%
ATT Design Cost			\$ 5,000	5,000	100.0%
Comcast Design Cost			\$ 3,128	3,128	100.0%
Kimley Horn - Design services Hibiscus Ave			\$ 12,047	11,940	99.1%
Utility Costs (FPL, Comcast, AT&T)			\$ 1,334,427	1,334,427	100.0%
Construction Engineering (KH)			\$ 333,659	95,320	28.6%
Total Phase 4 South Construction	\$ 4,710,000	\$ 7,640,000	\$ 10,868,896	3,908,265	36.0%
Easement Acquisition/Abandonment	\$ 240,000	\$ 411,000			
<i>Kimley Horn Easement Assistance</i>					
Easement Assistance (KH)			\$ 280,270	280,254	100.0%
Easement Assistance (KH) -- Switches			\$ 67,747	67,481	99.6%
Easement Assistance (KH)			\$ 59,369	44,143	74.4%
<i>Surveys</i>					
Legal Sketch			\$ 38,230	38,092	99.6%
Legal Sketch - Switches			\$ 4,967		
Jones Foster - Legal			\$ 7,000	6,133	87.6%
Recording Costs					
Easement Abandonment					
Total Easement Acquisition Costs	\$ 240,000	\$ 411,000	\$ 457,583	436,103	95.3%
Total Phase 4 Costs	\$ 10,370,000	\$ 15,220,000	\$ 18,026,163	10,125,514	56.2%

Underground Utility Project Budget
Phase 5 Project Costs
December 31, 2022

	Original OPC	Dec 2019 OPC	Budget	Actual	% Expended
Phase 5					
Kimley Horn					
Task 1.1 Phase 5 North Design	\$ 520,000		\$ 454,210	\$ 454,210	100.0%
Task 1.2 Phase 5 South Design	\$ 600,000		\$ 606,951	\$ 606,951	100.0%
Task 1.3 Permitting Assistance North/South			\$ 17,100	\$ 17,100	100.0%
Task 1.4 Bid Phase Assistance North/South			\$ 37,899	\$ 37,899	100.0%
Task 1.6 Meetings North/South			\$ 77,911	\$ 77,905	100.0%
Total Phase 5 Design	\$ 1,120,000	\$ 1,195,000	\$ 1,194,071	\$ 1,194,065	100.0%
Construction Costs					
Phase 5 North Construction	\$ 5,890,000	\$ 8,055,000			
Preconstruction			\$ 59,100	59,100	100.0%
Construction			\$ 6,425,580	3,670,453	57.1%
Construction Manager - Burkhardt			\$ 940,702	413,909	44.0%
Utility Costs (FPL, Comcast, AT&T)			\$ 67,157	67,157	100.0%
AT&T Design			\$ 5,000	5,000	100.0%
FPL Design Costs			\$ 16,223	30,330	187.0%
Reimburse Caren and Gary Marder work performed			\$ 6,100	6,100	100.0%
Construction Engineering (KH)			\$ 334,157	179,168	53.6%
Total Phase 5 North Construction	\$ 5,890,000	\$ 8,055,000	\$ 7,854,019	\$ 4,431,216	56.4%
Phase 5 South Construction	\$ 6,750,000	\$ 10,545,000			
Preconstruction			\$ 59,100	59,100	100.0%
Construction			\$ 6,629,361	1,542,954	23.3%
Infrastructure from Phase 4 south bid - Not part of Grant			\$ 163,350	45,019	27.6%
Construction Manager - Burkhardt			\$ 979,098	391,639	40.0%
Utility Costs (FPL, Comcast, AT&T)			\$ 365,720	365,720	100.0%
AT&T Design			\$ 5,000	5,000	100.0%
FPL Design Costs			\$ 19,283	20,633	107.0%
Construction Engineering (KH)			\$ 334,159	88,608	26.5%
Total Phase 5 South Construction	\$ 6,750,000	\$ 10,545,000	\$ 8,555,071	\$ 2,518,674	29.4%
Easement Acquisition/Abandonment	\$ 330,000	\$ 365,000			
<i>Kimley Horn Easement Assistance</i>					
Easement Assistance			\$ 218,600	\$ 218,536	100.0%
Easement Assistance			\$ 81,086	\$ 78,699	97.1%
Surveys					
Legal Sketch			\$ 41,080	\$ 32,603	79.4%
Legal Ads			\$ 1,000	\$ 585	58.5%
Recording Costs			\$ 6,000	\$ 5,723	95.4%
Easement Abandonment				\$ -	
Total Easement Acquisition Costs	\$ 330,000	\$ 365,000	\$ 347,766	\$ 336,146	96.7%
FEMA Grant		\$ (8,465,355)			
Total Phase 5 Costs	\$ 14,090,000	\$ 11,694,645	\$ 17,950,926	\$ 8,480,100	47.2%

Underground Utility Project Budget
Phase 6 Project Costs
December 31, 2022

	OPC	Dec 2019 OPC	Budget	Actual	% Expended
Phase 6 Design					
Kimley Horn					
Task 1.1 Phase 6 North Design	\$ 420,000		\$ 475,019	\$ 475,019	100.0%
Task 1.2 Phase 6 South Design	\$ 940,000		\$ 826,551	\$ 826,551	100.0%
Task 1.3 Permitting Assistance North/South			\$ 17,694	\$ 17,694	100.0%
Task 1.4 Bid Phase Assistance North/South			\$ 35,938	\$ 35,938	100.0%
Task 1.6 Meetings North			\$ 84,791	\$ 84,765	100.0%
Total Phase 6 Design	\$ 1,360,000	\$ 1,440,000	\$ 1,439,993	\$ 1,439,967	100.0%
Utility and Construction Costs					
Phase 6 North Construction	\$ 4,790,000	\$ 6,615,000			
Preconstruction			\$ 24,270	24,270	100.0%
Construction			\$ 7,867,296	193,022	2.5%
Approved Change Orders					
FPL Design Cost			\$ 15,868	29,198	184.0%
ATT Design Cost					
Comcast Design Cost					
Utility Costs (FPL, Comcast, AT&T)			\$ 295,632	295,632	100.0%
Construction Engineering (KH)			\$ 344,177	15,700	4.6%
Total Phase 6 North Construction	\$ 4,790,000	\$ 6,615,000	\$ 8,547,243	\$ 557,822	6.5%
Phase 6 South Construction	\$ 10,270,000	\$ 12,298,000			
Preconstruction			\$ 24,270	24,270	100.0%
Construction			\$ 8,400,000		
Approved Change Orders					
FPL Design Cost			\$ 29,924	29,924	100.0%
ATT Design Cost			\$ 10,000	10,000	100.0%
Comcast Design Cost					
Utility Costs (FPL, Comcast, AT&T)			\$ 754,815	754,815	100.0%
Construction Engineering (KH)			\$ 344,007	11,326	3.3%
Total Phase 6 South Construction	\$ 10,270,000	\$ 12,298,000	\$ 9,563,016	\$ 830,336	8.7%
Easement Acquisition/Abandonment	\$ 400,000	\$ 447,000			
<i>Kimley Horn Easement Assistance</i>					
Easement Assistance			\$ 351,594	\$ 312,464	88.9%
<i>Surveys</i>					
Legal Sketch			\$ 58,415	\$ 29,893	51.2%
Legal Ads			\$ 1,000	\$ 113	11.3%
Recording Costs			\$ 5,000	\$ 3,548	71.0%
Easement Abandonment				\$ -	
Total Easement Acquisition Costs	\$ 400,000	\$ 447,000	\$ 416,009	\$ 346,018	83.2%
Total Phase 6 Costs	\$ 16,820,000	\$ 20,800,000	\$ 19,966,261	\$ 3,174,143	15.9%

Underground Utility Project Budget
Phase 7 Project Costs
December 31, 2022

	OPC	Dec 2019 OPC	Budget	Actual	% Expended
Phase 7 Design					
Kimley Horn					
Task 1.1 Phase 7 North Design	\$ 450,000		\$ 492,488	\$ 443,239	90.0%
Task 1.2 Phase 7 South Design	\$ 480,000		\$ 630,830	\$ 567,747	90.0%
Task 1.3 Bid Phase Assistance North and South			\$ 35,938	\$ -	0.0%
Task 1.4 Meetings North and South			\$ 77,616	\$ 76,615	98.7%
Total Phase 7 Design	\$ 930,000	\$ 1,237,000	\$ 1,236,872	\$ 1,087,601	87.9%
Utility and Construction Costs					
Phase 7 North Construction	\$ 5,140,000	\$ 7,005,000			
Preconstruction			\$ 47,500	11,515	24.2%
Construction					
Approved Change Orders					
FPL Design Cost			\$ 15,806	27,165	171.9%
ATT Design Cost					
Comcast Design Cost					
Utility Costs (FPL, Comcast, AT&T)					
Construction Engineering (KH)					
Total Phase 7 North Construction	\$ 5,140,000	\$ 7,005,000	\$ 63,306	\$ 38,680	61.1%
Phase 7 South Construction	\$ 5,380,000	\$ 7,320,000			
Preconstruction			\$ 47,500	11,515	24.2%
Construction					
Approved Change Orders					
FPL Design Cost			\$ 19,953	19,953	100.0%
ATT Design Cost					
Comcast Design Cost					
Utility Costs (FPL, Comcast, AT&T)					
Construction Engineering (KH)					
Total Phase 7 South Construction	\$ 5,380,000	\$ 7,320,000	\$ 67,453	\$ 31,468	46.7%
Easement Acquisition/Abandonment	\$ 280,000	\$ 348,000			
<i>Kimley Horn Easement Assistance</i>					
Easement Assistance			\$ 346,459	\$ 358,013	103.3%
Surveys					
Legal Sketch					
Legal Ads			\$ 1,000	\$ 113	11.3%
American Acquisition Group					
Temp Services					
Legal Advertising					
Recording Costs			\$ 5,000	\$ 2,909	58.2%
Total Easement Acquisition Costs	\$ 280,000	\$ 348,000	\$ 352,459	\$ 361,035	102.4%
Total Phase 7 Costs	\$ 11,730,000	\$ 15,910,000	\$ 1,720,090	\$ 1,518,784	88.3%

Underground Utility Project Budget
Phase 8 Project Costs
December 31, 2022

	OPC	Dec 2019 OPC	Budget	Actual	% Expended
Phase 8 Design					
Kimley Horn					
Task 1.1 Phase 8 Design	\$ 1,010,000	\$ 1,151,000	\$ 1,029,017	\$ 308,705	30.0%
Task 1.2 Permitting Assistance			\$ 17,694		0.0%
Task 1.3 Bid Phase Assistance			\$ 14,430		0.0%
Task 1.4 Meetings			\$ 89,778	\$ 4,510	5.0%
Total Phase 8 Design	\$ 1,010,000	\$ 1,151,000	\$ 1,150,919	\$ 313,215	27.2%
Utility and Construction Costs					
Phase 8 Construction	\$ 10,990,000	\$ 13,107,000			
Preconstruction					
Construction					
Approved Change Orders					
FPL Design Cost			\$ 13,160	13,160	100.0%
ATT Design Cost					
Comcast Design Cost					
Utility Costs (FPL, Comcast, AT&T)					
Construction Engineering (KH)					
Total Phase 8 North Construction	\$ 10,990,000	\$ 13,107,000	\$ 13,160	\$ 13,160	100.0%
Easement Acquisition/Abandonment	\$ 300,000	\$ 242,000			
<i>Kimley Horn Easement Assistance</i>					
Easement Assistance			\$ 227,724	\$ 189,562	83.2%
Surveys					
Legal Sketch					
Legal Ads				\$ 56	
American Acquisition Group					
Kimley Horn Grant Assistance BRIC Grant			\$ 49,774	\$ 41,587	83.6%
Temp Services					
Recording Costs			\$ 5,000	\$ 190	3.8%
Total Easement Acquisition Costs	\$ 300,000	\$ 242,000	\$ 282,498	\$ 231,395	81.9%
Total Phase 8 Costs	\$ 12,300,000	\$ 14,500,000	\$ 1,446,577	\$ 557,770	38.6%

Underground Utility Project Budget
Other Project Costs
December 31, 2022

Master Plan	Budget	Actual	% Expended
Task 1.1 - Data Collection & GIS Base Mapping	\$ 88,021	\$ 88,021	100.0%
Task 1.1a Data Collection for Future Communications	\$ 23,511	\$ 23,511	100.0%
Task 1.2 - Conceptual Design and Master Plan	\$ 161,756	\$ 161,756	100.0%
Task 1.3 - Project Sequencing and Phasing	\$ 31,244	\$ 31,244	100.0%
Task 1.4 - Assessment of Traffic Impacts	\$ 77,660	\$ 77,660	100.0%
Task 1.5 - Project Delivery Methods	\$ 17,448	\$ 17,448	100.0%
Task 1.6 - Master Plan Document	\$ 45,053	\$ 45,053	100.0%
Task 1.7 - Meetings Master Planning Phase	\$ 113,135	\$ 113,123	100.0%
Task 1.8 - Master Plan Second Half	\$ 40,067	\$ 40,067	100.0%
Subtotal Master Planning	\$ 597,895	\$ 597,883	100.0%
Comcast Preplanning - Master Plan	\$ 12,015	\$ 12,015	100.0%
Assessment Costs, Legal, Fees and Discounts	\$ 950,000	\$ 947,590	99.7%
Project Manager -Pay and benefits	\$ 840,000	\$ 663,311	79.0%
Temp Services - Easement Acquisition	\$ 150,000	\$ 106,050	70.7%
Other Miscellaneous Expenses		\$ 24,620	
General Easement Assistance	\$ 24,976	\$ 24,838	99.4%
Community Outreach	\$ 282,519	\$ 225,256	79.7%
Peer Review Study - Patterson & Dewar (\$50,000 Offsetting Revenue)	\$ 100,000	\$ 100,000	100.0%
Total Other Project Costs	\$ 2,957,405	\$ 2,701,563	91.3%

Debt Service and Related Debt Issuance Costs

	Budget	Actual	% Expended
Commercial Paper Issuance Cost	\$ 260,116	\$ 260,116	100.0%
Commercial Paper Interest	\$ 243,096	\$ 243,096	100.0%
Arbitrage Rebate Calculation	\$ 2,500	\$ 2,900	116.0%
Debt Service Fees	\$ 2,000	\$ -	0.0%
GO Bond Closing Costs 2018	\$ 488,271	\$ 487,471	99.8%
GO Bond Closing Costs 2021	\$ 202,169	\$ 202,380	100.1%
GO Bond Debt Service	\$ 13,345,005	\$ 13,165,364	98.7%
Total Debt Service and Related Debt Issuance Costs	\$ 14,543,157	\$ 14,361,326	98.7%

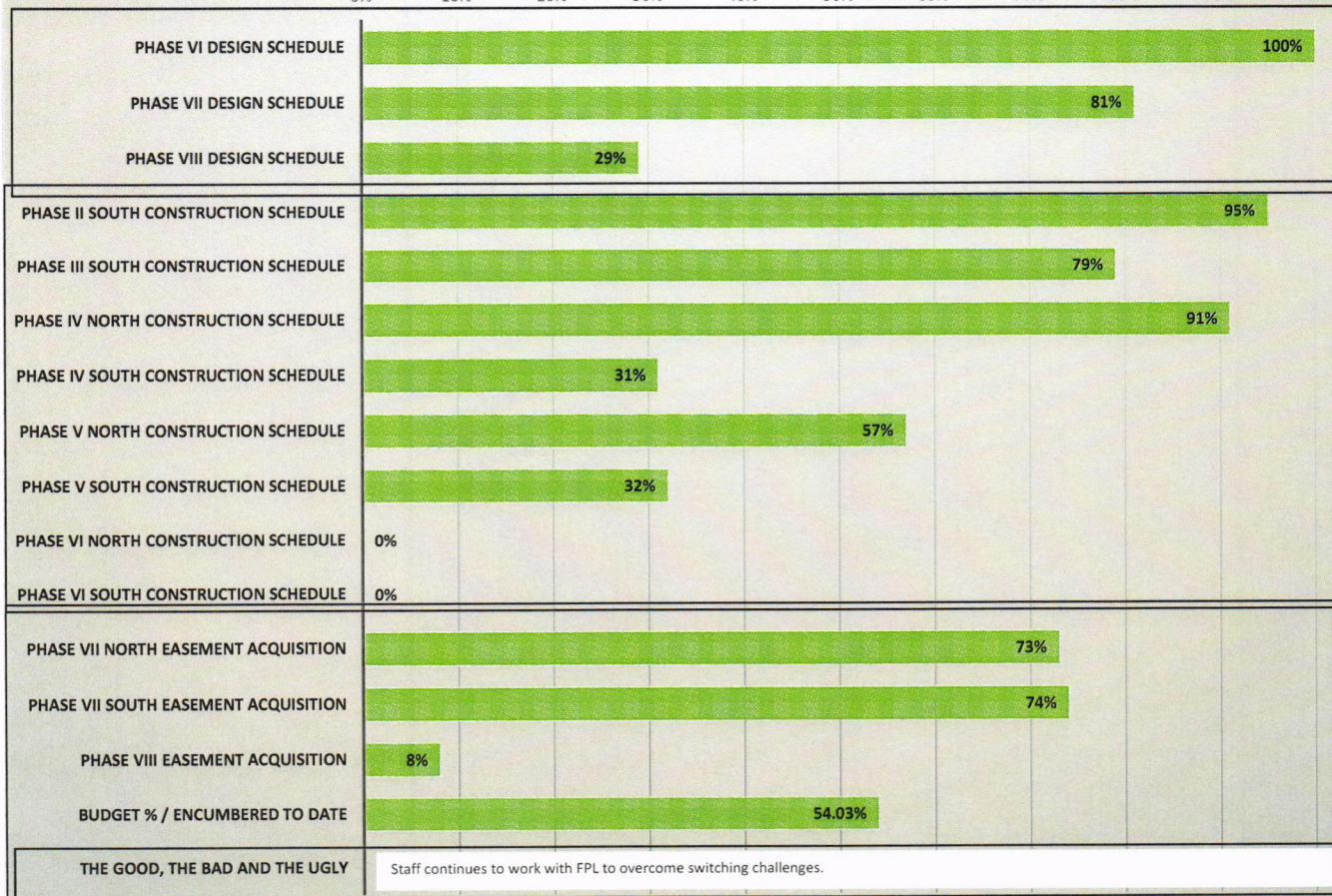
Related Costs Outside of the Underground Project Budget

	Budget	Actual	% Expended
Costs paid from (307) Fund CIP			
Underground City of Lake Worth Section			
Project Design	\$ 25,231	\$ 24,430	96.8%
Project Construction	\$ 351,081	\$ 351,081	100.0%
Project Construction Engineering	\$ 11,607	\$ 12,849	110.7%
Utility Cost (FPL, Comcast, AT&T)	\$ 134,333	\$ 127,531	94.9%
Project Meeting Attendance	\$ 3,334	\$ 2,914	87.4%
Total Lake Worth Section	\$ 525,586	\$ 518,805	98.7%
Ibis Way PGD Improvements	\$ 14,583	\$ 14,583	100.0%
Crosswalk Spare Conduits	\$ 26,148	\$ 17,519	67.0%
General Fund Costs			
Goldmacher v TPB Legal and Other Costs		\$ 183,701	
Kosberg v TPB Legal and Other Costs		\$ 615,602	
PBT Real Estate v TPB		\$ 197,178	
Gardner, Bist Bowden, Bush (Shef Wright)		\$ 24,799	
Telecommunications Consultant	\$ 89,000	\$ 83,210	93.5%
Peter Brandt (Contract Negotiations)	\$ 35,000	\$ 23,735	67.8%
Total Related Costs Outside of the Budget	\$ 690,317	\$ 1,679,132	243.2%

Town of Palm Beach - Underground Utility Project Dashboard - December 2022

Status Legend
 Green - On Task
 Yellow - Caution
 Red - Not on Task
 Complete - Not Shown

0% 10% 20% 30% 40% 50% 60% 70% 80% 90% 100%



TOWN OF PALM BEACH

Town Council Meeting on: January 10, 2023

Section of Agenda

Regular Agenda - Old Business

Agenda Title

Annual Report from Palm Beach Island Cats

Presenter

David Levitt, Palm Beach Island Cats

ATTACHMENTS:

The Annual Report will be placed in the purple folders

TOWN OF PALM BEACH

Town Council Meeting on: January 10, 2023

Section of Agenda

Regular Agenda - New Business

Agenda Title

Review of a Stop Work Order Due to the Three-Strike Rule at 221 Ocean Terrace

Presenter

Wayne Bergman, Director of Planning, Zoning and Building

ATTACHMENTS:

- **Memorandum Dated: December 28, 2022, From Wayne Bergman, Director of Planning, Zoning & Building**

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 10, 2023

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

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



Re: 221 Ocean Terrace– Third Strike & Stop Work Order

Date: December 28, 2022

FYI - This Memo is provided as Information to the Town Council

As you know, the Town has a “Three Strike Rule” for construction parking and construction site management. The regulations and process are found in the Town’s “Department of Public Works, Engineering Division, Standards Applicable to Public Rights-of-Way and Easements Within the Town of Palm Beach” (commonly called the Right-of Way-Manual), dated May 1994, as revised through November 8, 2022. Chapter XII, Miscellaneous Provisions, contains the details of the Three Strike rules. The regulations spell out the process in which contractors can secure parking permits, the fees for various violations, and the process that must occur once a contractor receives Three Strikes – three different sets of tickets for construction violations. The applicable pages of the Right of Way Manual are attached.

221 Ocean Terrace recently reached the level of Three Strikes for construction violations. The contractor is Jeremy Vassalotti, Inc. Please refer to the attached letter dated December 15, 2022 for the details of the three strikes. This is the first time that Jeremy Vassalotti, Inc. has been before you with Three Strike projects. Copies of the violations are attached. The Pending Stop Work Order Notice (attached) was sent to the contractor.

The regulations allow a time frame for the violator to appeal the ticket(s). In this case, since the last violation was issued by Police, the appeal (request for the dismissal of the violation) was filed with the Chief of Police Nicholas Caristo. The regulations required Chief Caristo to hear / review the appeal (if filed) and render a ruling. Chief Caristo found in favor of the Town, and therefore upheld the Third Strike. This decision occurred on December 16, 2022. The Planning, Zoning & Building Department issued a STOP WORK ORDER for the construction project on December 21, 2022.

The contractor owes the Town \$750.00 in fees, plus any unpaid fines, at this time.

The Town Council's process for this matter is contained within the Public Works "Right of Way Manual", as follows:

"When the Town Council receives a written request to lift a stop work order the Town Council shall have the power to admonish the contractor; take such action as deemed necessary to effect the stop work order on a permanent basis by nullifying the existing building permit; cause the contractor and/or property owner to enter into a binding agreement to memorialize the understandings between the Town and the contractor and/or property owner relative to all conditions placed upon the lifting of the stop work order, if applicable; establish penalties for future right-of-way violations the amount for which shall be in the sole discretion of the Town Council; collect the fine as outlined below, plus payment of any outstanding right-of-way fines and accumulated interest, as referenced herein below and to prohibit the issuance of any additional right-of-way permits for the duration of the work in question.

The fine for a third (3rd) strike shall be \$500; the fine and penalty for a fourth (4th) strike shall be a fine of \$2,500 and a mandatory thirty (30) day shutdown of the construction project; the fine and penalty for a fifth strike shall be a fine of \$5,000 and a mandatory thirty (30) day shutdown of the construction project, plus payment of any outstanding right of-way fines and accumulated interest unless the Town Council chooses to invoke the use of a binding agreement memorializing a penalty structure to be paid to the Town for all future right-of-way violations in excess of three (3) to be paid in accordance with the terms and conditions of the binding agreement between the Town and the contractor and/or property owner. All fines and penalties shall be paid in full prior to issuance of a Certificate of Occupancy for the construction associated with the activity that generated the fines, penalties, and interest."

Any motion to resolve this matter should include "waiving the third strike" and "granting the ability for the contractor to apply for future right of way permits".

Attachments: Copies of the Violations
Copy of the Pending Stop Work Order Notice
Copy of the Appeal Decision
Request to Appear Before the Town Council

Cc: Paul Brazil, Director of Public Works
Police Chief Nicholas Caristo
Debby Moody



PW- 6917

PUBLIC WORKS DEPARTMENT
(561) 838-5440

R.O.W. VIOLATION NOTICE

NAME: Jeremy Vassalotti DATE: 11/23/22JOB ADDRESS: 221 Ocean Terrace

- ☐ Working in right-of-way without permit \$ 150 X _____ = _____
- ☐ Failure to have permit on job \$ 150 X _____ = _____
- ☒ Construction parking without permit* \$ 150 X 3 = \$450
1st = \$150 2nd = \$250 and thereafter = \$500
- ☐ Inadequate Maintenance of Traffic \$ 150 X _____ = _____
- ☐ Right-of-way littered by site dirt or debris \$ 150 X _____ = _____
- ☐ Failure to maintain safe sidewalk \$ 150 X _____ = _____
- ☐ Failure to carry-out permit terms/conditions \$ 150 X _____ = _____
- ☐ Storage of materials in right-of-way \$ 150 X _____ = _____
- ☒ Use of right-of-way as work area \$ 150 X 1 = \$150
- ☐ Damage to infrastructure in right-of-way \$ 150 X _____ = _____
- ☐ Dewatering without a permit \$ 150 X _____ = _____
- ☐ Illegal discharges to Town sewers** \$ 500 X _____ = _____
- ☐ Other _____ \$ _____ X _____ = _____
- ☐ 2nd and added days of violation, double fine \$ _____ X _____ = _____

TOTAL FINE: \$600

Total fine to be paid within 10 working days to: Town of Palm Beach, Finance Dept., PO Box 2029, Palm Beach, FL 33480, may also be paid in person at 360 S. County Road, Palm Beach, FL 33480. Please attach a copy of this violation with payment, check must reference violation number. No further permits will be issued until fine is paid. Should you wish to contest this violation call the Public Works Office at 561-838-5440.

* Parking violations are per vehicle per day. Parking placard must be displayed in vehicle.

** Fine plus clean-up cost.

*** Includes but not limited to:

Dumpster in Right of Way - \$100 per incident.

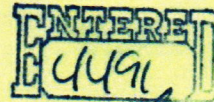
Right of Way restoration - \$30 per day until restored.

ISSUER: Chet Purvaz

white/violator

yellow/PW

pink/issuer





Callaway Concrete

PW-

6979

PUBLIC WORKS DEPARTMENT
(561) 838-5440

R.O.W. VIOLATION NOTICE

NAME: James Vassalotti DATE: 12.02.02

JOB ADDRESS: 221 Ocean Terrace

- | | |
|---|--------------------------------|
| ☐ Working in right-of-way without permit | \$ 150 X <u>1</u> = <u>150</u> |
| ☐ Failure to have permit on job | \$ 150 X _____ = _____ |
| ☐ Construction parking without permit*
1 st = \$150 2 nd = \$250 and thereafter = \$500 | \$ 150 X _____ = _____ |
| ☐ Inadequate Maintenance of Traffic | \$ 150 X <u>1</u> = <u>150</u> |
| ☐ Right-of-way littered by site dirt or debris | \$ 150 X _____ = _____ |
| ☐ Failure to maintain safe sidewalk | \$ 150 X _____ = _____ |
| ☐ Failure to carry-out permit terms/conditions | \$ 150 X _____ = _____ |
| ☐ Storage of materials in right-of-way | \$ 150 X _____ = _____ |
| ☐ Use of right-of-way as work area | \$ 150 X _____ = _____ |
| ☐ Damage to infrastructure in right-of-way | \$ 150 X _____ = _____ |
| ☐ Dewatering without a permit | \$ 150 X _____ = _____ |
| ☐ Illegal discharges to Town sewers** | \$ 500 X _____ = _____ |
| ☐ Other _____ | \$ _____ X _____ = _____ |
| ☐ 2nd and added days of violation, double fine | \$ _____ X _____ = _____ |

Concrete pour from R.O.W.
no permit

TOTAL FINE: 300

Total fine to be paid within 10 working days to: Town of Palm Beach, Finance Dept., PO Box 2029, Palm Beach, FL 33480, may also be paid in person at 360 S. County Road, Palm Beach, FL 33480. Please attach a copy of this violation with payment, check must reference violation number. No further permits will be issued until fine is paid. Should you wish to contest this violation call the Public Works Office at 561-838-5440.

* Parking violations are per vehicle per day. Parking placard must be displayed in vehicle.

** Fine plus clean-up cost.

*** Includes but not limited to:

Dumpster in Right of Way - \$100 per incident.

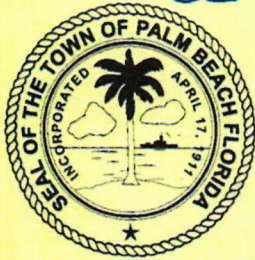
Right of Way restoration - \$30 per day until restored.

ISSUER Pa 13

white/violator

yellow/PW

pink/issuer



CE-22-2256

PD-01469

POLICE DEPARTMENT
(561) 838-5454**R.O.W. VIOLATION NOTICE**NAME: Jeremy Vassalotti INC DATE: 12-14-22JOB ADDRESS: 221 Ocean Ter Palm Beach FL 33480

- | | |
|---|-----------------------------------|
| ☒ Working in right-of-way without permit | \$ 150 X <u>1</u> = <u>150.00</u> |
| ☐ Failure to have permit on job | \$ 150 X _____ = _____ |
| ☐ Construction parking without permit*
1 st = \$150 2 nd = \$250 and thereafter = \$500 | \$ 150 X _____ = _____ |
| ☒ Inadequate Maintenance of Traffic | \$ 150 X <u>1</u> = <u>150.00</u> |
| ☐ Right-of-way littered by site dirt or debris | \$ 150 X _____ = _____ |
| ☐ Failure to maintain safe sidewalk | \$ 150 X _____ = _____ |
| ☐ Failure to carry-out permit terms/conditions | \$ 150 X _____ = _____ |
| ☐ Storage of materials in right-of-way | \$ 150 X _____ = _____ |
| ☒ Use of right-of-way as work area | \$ 150 X <u>1</u> = <u>150.00</u> |
| ☐ Damage to infrastructure in right-of-way | \$ 150 X _____ = _____ |
| ☐ Dewatering without a permit | \$ 150 X _____ = _____ |
| ☐ Illegal discharges to Town sewers** | \$ 500 X _____ = _____ |
| ☐ Other _____ | \$ _____ X _____ = _____ |
| ☐ 2nd and added days of violation, double fine | \$ _____ X _____ = _____ |

TOTAL FINE: 11450.00

Total fine to be paid within 10 working days to: Town of Palm Beach, **Finance Dept.**, P.O. Box 2029, Palm Beach, FL 33480, may also be paid in person at 360 S. County Road, Palm Beach, FL 33480. Please attach a copy of this violation with payment, check must reference violation number. No further permits will be issued until fine is paid. Should you wish to contest this violation call the Police Department at 561-838-5454.

*Parking violations are per vehicle per day. Parking placard must be displayed in vehicle.

**Fine plus clean-up cost.

***Includes but not limited to:

Dumpster in Right of Way \$100 per incident.

Right of Way restoration - \$30 per day until restored.

ISSUER: JFC/14080 CHD 2022-348059

white/violator

yellow/PW

pink/issuer



TOWN OF PALM BEACH

Planning, Zoning & Building Department

December 15, 2022

Via email: jeremyvassalotti@yahoo.com; office.jvi@yahoo.com

Jeremy Vassalotti Inc
% Jeremy Vassalotti
7247 Via Leonardo
Lake Worth, FL 33467

Re: **STOP WORK ORDER PENDING** - 3-Strike Rule Citations – 221 Ocean Terrace, B-21-92019

As you know, the Town of Palm Beach Standards Applicable To Public Rights-Of-Way And Easements Within The Town Of Palm Beach regulates the number of construction-related vehicles that can be parked on Town streets in conjunction with building project sites within the Town. Attached to all construction permits issued to a job is information regarding these regulations.

This letter is to serve as notice that on **THREE** separate occasions you have received citations:
Strike 3 December 14, 2022 (PD-01469 – Working in right-of-way without permit, Inadequate Maintenance of Traffic, Use of right-of-way as work area)
Strike 2 December 2, 2022 (PW-6979 – Working in right-of-way without permit, Inadequate Maintenance of Traffic)
Strike 1 November 23, 2022 (PW-6917 – Construction parking without permit, use of right-of-way as work area)

Therefore, under the Town's rules (referred to as the "3-strike" rule), the Director of Public Works and Police Chief have notified the Planning, Zoning & Building Department of these violations, and requested that a "**Stop Work**" order be issued as allowed by Section 18-204 of Town Code.

Per Town Resolution No 001-2022, because you have received these strikes, a fine in the amount of \$500.00 is being imposed and is also payable immediate to the Town of Palm Beach. This fine is in addition to all right-of-way fines referenced above. Invoice #81817 is attached.

An appeal to the Police Chief needs to be submitted in writing within 7 days of the issuance of your strike. If an appeal is denied or is not filed in a timely fashion, a "Stop Work" order will be issued by the Building Official effective the end of the working day December 21, 2022. After that date, no work may be performed at the site under any permits issued by the Town of Palm Beach.

Post Office Box 2029 * 360 South County Road * Palm Beach, FL 33480 * (561) 838-5430

All requests to lift a “**Stop Work**” order would need to be decided by the Town Council. The next Town Council meeting date is Tuesday, January 10, 2023. In order for this item to be considered at that meeting, you would need to submit a written request to me no later than **Wednesday, January 4, 2023, prior to 5:00 PM.**

Truly yours,

Wayne Bergman

Wayne Bergman
Director, Planning, Zoning & Building Department

cc: Elizabeth & James Bonner, 221 Ocean Ter, Palm Beach, FL 33480
K. Blouin, Town Manager
H. Paul Brazil, Public Works Director
Nicholas Caristo, Police Chief
Benjamin Alma, Parking and Code Enforcement Manager



TOWN OF PALM BEACH
Finance Department
360 South County Road
PO Box 2029
Palm Beach, FL 33480
(561) 838-5444

INVOICE

81341

Page 1 of 1

DATE	12/05/2022
ACCOUNT	MI-000330
AMT DUE	250.00

JEREMY VASSALOTTI INC
7247 VIA LEONARDO
LAKE WORTH, FL 33467

AMOUNT PAID _____



PAY YOUR STATEMENT ONLINE AT: [HTTPS://TOWNOFPALMBEACH.COM/EDENAR](https://TOWNOFPALMBEACH.COM/EDENAR)

TOWN OF PALM BEACH

MAKE CHECKS PAYABLE TO TOWN OF PALM BEACH
PLEASE DETACH AND RETURN WITH YOUR REMITTANCE

DESCRIPTION	AMOUNT
FINE 3-STRIKE RULE STRIKE 2 Fine for Strike 2 - 221 Ocean Terrace	250.00
Total Amount Due:	250.00
ACCOUNT NO. MI-000330	PAYABLE UPON RECEIPT 250.00

Please Remit to: TOWN OF PALM BEACH
Finance Department
360 South County Road
PO Box 2029
Palm Beach, FL 33480
01-10-2023 TCM Backup

Pay your Statement online at: <https://TownofPalmBeach.com/EDENAR>
Log in or Register as a New User and connect to your account by entering your Account No and Invoice number.



TOWN OF PALM BEACH
Finance Department
360 South County Road
PO Box 2029
Palm Beach, FL 33480
(561) 838-5444

INVOICE

81817

Page 1 of 1

DATE	12/15/2022
ACCOUNT	MI-000330
AMT DUE	500.00

JEREMY VASSALOTTI INC
7247 VIA LEONARDO
LAKE WORTH, FL 33467

AMOUNT PAID _____



PAY YOUR STATEMENT ONLINE AT: [HTTPS://TOWNOFPALMBEACH.COM/EDENAR](https://TOWNOFPALMBEACH.COM/EDENAR)

TOWN OF PALM BEACH

MAKE CHECKS PAYABLE TO TOWN OF PALM BEACH
PLEASE DETACH AND RETURN WITH YOUR REMITTANCE

DESCRIPTION	AMOUNT
FINE 3-STRIKE RULE STRIKE 3 Fine for Strike 3 - 221 Ocean Ter	500.00
Total Amount Due:	500.00
ACCOUNT NO. MI-000330	PAYABLE UPON RECEIPT 500.00

Please Remit to: TOWN OF PALM BEACH
Finance Department
360 South County Road
PO Box 2029
Palm Beach, FL 33480
01-10-2023 TCM Backup

Pay your Statement online at: <https://TownofPalmBeach.com/EDENAR>
Log in or Register as a New User and connect to your account by entering your Account No and Invoice number.



TOWN OF PALM BEACH POLICE DEPARTMENT

DEDICATED TO EXCELLENCE



December 16, 2022

Jeremy Vassalotti, Inc.
Attn: Ms. Ashley Sanchez
300 W. 10th Street,
West Palm Beach, FL 33404

Re: Code Violations – 221 Ocean Terrace, Palm Beach, FL 33480

Dear Ms. Sanchez,

I am in receipt of your appeal request.

Town Ordinance allows ten days after each violation to contest the violation. You have elected to contest R.O.W. Violation # 1469. It was issued on December 14, 2022, for working in a right-of-way without a permit, for use of the right-of-way as a work area, and for inadequate maintenance of traffic. According to the Planning, Zoning and Building Department, you did not have a right-of-way permit. Records indicated that R.O.W. Permit U22-12071 was applied for on December 9th requesting permission to use the right-of-way on the December 14th; However, this R.O.W. permit request was not approved.

After thorough review of the Town Ordinances and the Town's Right-of Way Manual, along with the violations, the request for dismissal of the violation is denied.

With the recent changes in Town ordinances and the Town's commitment to strongly enforce construction site violations, I have an obligation to ensure consistencies in the enforcement and appeal process. You may contact the Planning, Zoning, and Building Department for any next steps in appearing before Town Council or restarting work.

Sincerely,

Nicholas Caristo
Chief of Police

cc: Paul Brazil, Director of Public Works
Wayne Bergman, Director of Planning, Zoning and Building

JEREMY VASSALOTTI, INC.

300 W 10TH STREET WEST PALM BEACH, FL 33404
561.631.7299 | OFFICE.JVI@YAHOO.COM

LIFT "STOP WORK" REQUEST

12/27/2022

Re: 221 Ocean Terrace Palm Beach, FL 33480

Permit#: B-21-92019

To Whom it may concern,

As you may know, the Town of Palm Beach Chief of police has denied the 3rd strike appeal to Jeremy Vassalotti, Inc for Permit#: B-21-92019.

This letter is a request to lift the "Stop Work" order and to have a supervisor from JVI attend the Town Council meeting to go over the issues causing the "Stop work" order for 221 Ocean Terrace Palm Beach, FL 33480. JVI is requesting this so we can complete the back fill, rock base, Gunite in pool, walkway and patio install.

If additional information is needed, please feel free to contact us.

I greatly appreciate you taking the time to read this.

Respectfully,



Ashley Sanchez

Office Manager

Jeremy Vassalotti, Inc.

TOWN OF PALM BEACH

Town Council Meeting on: January 10, 2023

Section of Agenda

Regular Agenda - New Business

Agenda Title

Review of a Stop Work Order Due to the Three-Strike Rule at 346 Seabreeze Avenue for Multiple Strikes

Presenter

Wayne Bergman, Director of Planning, Zoning and Building

ATTACHMENTS:

- **Memorandum Dated January 3, 2023 from Wayne Bergman, Director of Planning, Zoning and Building**
- **Letter Dated January 4, 2023 from R. Stephenson, Property Owner of 346 Seabreeze Ave.**

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 10, 2023

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

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

Re: 346 Seabreeze Avenue – Multiple Strikes & Stop Work Order

Date: January 3, 2023

FYI - This Memo is provided as Information to the Town Council

As you know, the Town has a “Three Strike Rule” for construction parking and construction site management. The regulations and process are found in the Town’s “Department of Public Works, Engineering Division, Standards Applicable to Public Rights-of-Way and Easements Within the Town of Palm Beach” (commonly called the Right-of Way-Manual), dated May 1994, as revised through November 8, 2022. Chapter XII, Miscellaneous Provisions, contains the details of the Three Strike rules. The regulations spell out the process in which contractors can secure parking permits, the fees for various violations, and the process that must occur once a contractor receives Three Strikes – three different sets of tickets for construction violations. The applicable pages of the Right of Way Manual are attached.

346 Seabreeze Avenue recently reached the level of possibly seven (7) Strikes for construction-related violations. The prime contractor is Woolems, Inc. Please refer to the attached letter dated December 21, 2022 for the details of the first Three Strikes. The Pending Stop Work Order Notice (attached) was sent to the contractor, based upon the initial Three Strikes.

More recently, four violations occurred during this Holiday season, but were not received or recorded by PZB until January 3, 2023 – a right of way violation on December 20, 2022; expired construction parking passes on December 22, 2022; construction hours violation on December 23, 2022; and construction parking without proper permits violations on December 27, 2022.

The regulations allow a time frame for the violator to appeal the ticket(s). In this case, since the third violation was issued by Police, the appeal (request for the dismissal of the violation) was filed with the Chief of Police Nicholas Caristo. The regulations required Chief Caristo to hear / review the appeal (if filed) and render a ruling. Chief Caristo found in favor of the Town, and therefore upheld the Third Strike. This decision occurred on December 28, 2022. The Planning, Zoning & Building Department issued a STOP WORK ORDER for the construction project on December 28, 2022.

The contractor owes the Town \$750.00 in fees, plus any unpaid fines, at this time.

This is the second time that Woolems, Inc. has been before you with Three Strike projects. Copies of all violations are attached.

The Town Council's process for this matter is contained within the Public Works "Right of Way Manual", as follows:

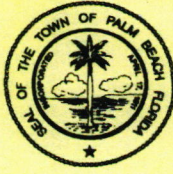
"When the Town Council receives a written request to lift a stop work order the Town Council shall have the power to admonish the contractor; take such action as deemed necessary to effect the stop work order on a permanent basis by nullifying the existing building permit; cause the contractor and/or property owner to enter into a binding agreement to memorialize the understandings between the Town and the contractor and/or property owner relative to all conditions placed upon the lifting of the stop work order, if applicable; establish penalties for future right-of-way violations the amount for which shall be in the sole discretion of the Town Council; collect the fine as outlined below, plus payment of any outstanding right-of-way fines and accumulated interest, as referenced herein below and to prohibit the issuance of any additional right-of way permits for the duration of the work in question.

The fine for a third (3rd) strike shall be \$500; the fine and penalty for a fourth (4th) strike shall be a fine of \$2,500 and a mandatory thirty (30) day shutdown of the construction project; the fine and penalty for a fifth strike shall be a fine of \$5,000 and a mandatory thirty (30) day shutdown of the construction project, plus payment of any outstanding right of-way fines and accumulated interest unless the Town Council chooses to invoke the use of a binding agreement memorializing a penalty structure to be paid to the Town for all future right-of-way violations in excess of three (3) to be paid in accordance with the terms and conditions of the binding agreement between the Town and the contractor and/or property owner. All fines and penalties shall be paid in full prior to issuance of a Certificate of Occupancy for the construction associated with the activity that generated the fines, penalties, and interest."

Any motion to resolve this matter should include "waiving the third strike" and "granting the ability for the contractor to apply for future right of way permits".

Attachments: Copies of the Violations
Copy of Warning Notice
Copy of the Pending Stop Work Order Notice
Copy of the Appeal Decision

Cc: Paul Brazil, Director of Public Works
Police Chief Nicholas Caristo
Debby Moody



PW- 6387

PUBLIC WORKS DEPARTMENT
(561) 838-5440

R.O.W. VIOLATION NOTICE

NAME: Woolams DATE: 4/8/22JOB ADDRESS: 3410 S. ~~St~~ Sea breeze

- ☐ Working in right-of-way without permit \$ 150 X _____ = _____
- ☐ Failure to have permit on job \$ 150 X _____ = _____
- ☒ Construction parking without permit* strike \$ 150 X 1 = \$150
1st = \$150 2nd = \$250 and thereafter = \$500
- ☐ Inadequate Maintenance of Traffic \$ 150 X _____ = _____
- ☐ Right-of-way littered by site dirt or debris \$ 150 X _____ = _____
- ☐ Failure to maintain safe sidewalk \$ 150 X _____ = _____
- ☐ Failure to carry-out permit terms/conditions \$ 150 X _____ = _____
- ☐ Storage of materials in right-of-way \$ 150 X _____ = _____
- ☐ Use of right-of-way as work area \$ 150 X _____ = _____
- ☐ Damage to infrastructure in right-of-way \$ 150 X _____ = _____
- ☐ Dewatering without a permit \$ 150 X _____ = _____
- ☐ Illegal discharges to Town sewers** \$ 500 X _____ = _____
- ☐ Other _____ \$ _____ X _____ = _____
- ☐ 2nd and added days of violation, double fine \$ _____ X _____ = _____

SMC Truck Plate IQ3 3NE TOTAL FINE: \$150

Total fine to be paid within 10 working days to: Town of Palm Beach, Finance Dept., PO Box 2029, Palm Beach, FL 33480, may also be paid in person at 360 S. County Road, Palm Beach, FL 33480. Please attach a copy of this violation with payment, check must reference violation number. No further permits will be issued until fine is paid. Should you wish to contest this violation call the Public Works Office at 561-838-5440.

* Parking violations are per vehicle per day. Parking placard must be displayed in vehicle.

** Fine plus clean-up cost.

*** Includes but not limited to:

Dumpster in Right of Way - \$100 per incident.

Right of Way restoration - \$30 per day until restored.

ISSUER: Chat Rivers

white/violator

yellow/PW

pink/issuer



PW- 6491

PUBLIC WORKS DEPARTMENT
(561) 838-5440**R.O.W. VIOLATION NOTICE**NAME: Oster Pools DATE: 10/5/22JOB ADDRESS: 346 S. S. 25 Ave

- | | |
|---|----------------------------------|
| ☐ Working in right-of-way without permit | \$ 150 X _____ = _____ |
| ☐ Failure to have permit on job | \$ 150 X _____ = _____ |
| ☐ Construction parking without permit*
1 st = \$150 2 nd = \$250 and thereafter = \$500 | \$ 150 X _____ = _____ |
| ☒ Inadequate Maintenance of Traffic | \$ 150 X <u>1</u> = <u>\$150</u> |
| ☐ Right-of-way littered by site dirt or debris | \$ 150 X _____ = _____ |
| ☒ Failure to maintain safe sidewalk | \$ 150 X <u>1</u> = <u>\$150</u> |
| ☒ Failure to carry-out permit terms/conditions
<u>Construction parking</u> | \$ 150 X <u>2</u> = <u>\$300</u> |
| ☐ Storage of materials in right-of-way | \$ 150 X _____ = _____ |
| ☐ Use of right-of-way as work area | \$ 150 X _____ = _____ |
| ☐ Damage to infrastructure in right-of-way | \$ 150 X _____ = _____ |
| ☐ Dewatering without a permit | \$ 150 X _____ = _____ |
| ☐ Illegal discharges to Town sewers** | \$ 500 X _____ = _____ |
| ☐ Other <u>stake*</u> | \$ _____ X _____ = _____ |
| ☐ 2nd and added days of violation, double fine | \$ _____ X _____ = _____ |

TOTAL FINE: \$600

Total fine to be paid within 10 working days to: Town of Palm Beach, Finance Dept., PO Box 2029, Palm Beach, FL 33480, may also be paid in person at 360 S. County Road, Palm Beach, FL 33480. Please attach a copy of this violation with payment, check must reference violation number. No further permits will be issued until fine is paid. Should you wish to contest this violation call the Public Works Office at 561-838-5440.

* Parking violations are per vehicle per day. Parking placard must be displayed in vehicle.

** Fine plus clean-up cost.

*** Includes but not limited to:

Dumpster in Right of Way - \$100 per incident.

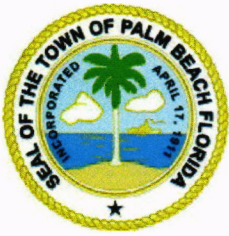
Right of Way restoration - \$30 per day until restored.

ISSUER: Chat Purves

white/violator

yellow/PW

pink/issuer



TOWN OF PALM BEACH

Planning, Zoning & Building Department

November 8, 2022

Via email & mail: adial@woolemsinc.com;
kyle@robertspooldesign.com; darryl@robertspooldesign.com

Woolems, Inc.
% James Woolems
2301 Centrepark West Dr, Suite 150
West Palm Beach, FL 33405

Re: **Warning Notice** Construction Parking & Construction Site Management Citations –
346 Seabreeze Ave, B-21-92436

On October 5, 2022, you received a citation for violations of the “3-Strike Rule”, which regulates the number of construction-related vehicles that can be parked on Town streets and construction site management. These regulations are contained in the Town of Palm Beach Standards Applicable to Public Rights-Of-Way And Easements Within The Town Of Palm Beach and information regarding these regulations is attached to all construction permits issued to a job site.

If three citations are received, the Chief of Police or the Director of Public Works may notify the Planning, Zoning & Building Department of these violations, and request that a “**Stop Work**” order be issued as allowed by Section 18-204 of Town Code (referred to as the “3-strike” rule).

Your project has received **two citations, constituting two strikes:**

Strike 2 October 5, 2022 (PW-6491 – Inadequate Maintenance of Traffic, Failure to maintain safe sidewalk, Failure to carry-out permit terms/conditions-construction parking)

Strike 1 April 8, 2022 (PW-6387 – Construction parking without a permit)

Also, per Town Resolution No. 001-2022, because you have received two strikes, fines in the amount of \$250.00 are being imposed and is payable immediately to the Town of Palm Beach. This fine is in addition to all right-of-way fines referenced above. See attached Invoice # 81212.

This is to notify you that if you receive another citation, under the Town’s rules a “Stop Work” order will be issued by this Department and additional fines shall be imposed. Please note that if a “Stop Work” order is issued by the Building Official, no work may be performed at the site under any permits issued by the Town of Palm Beach, until the Town Council determines if and under what conditions the work may proceed.

Your cooperation in observing the construction regulations of the Town will assist in ensuring that your job proceeds without disruption.

Sincerely,

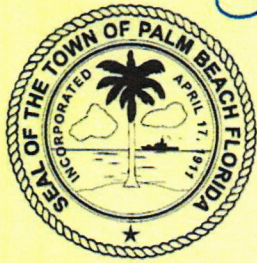
Post Office Box 2029 * 360 South County Road * Palm Beach, FL 33480 * (561) 838-5431

Wayne Bergman

Wayne Berman
Director, Planning, Zoning & Building Department

cc: Richard S & Margot S Stephenson, 346 Seabreeze Ave, Palm Beach, FL 33480
Kirk Blouin, Town Manager
H. Paul Brazil, Public Works Director
Nicholas Caristo, Police Chief
Benjamin Alma, Support Services Manager

Post Office Box 2029 * 360 South County Road * Palm Beach, FL 33480 * (561) 838-5431



CE 22-295

PD-01471

POLICE DEPARTMENT
(561) 838-5454**R.O.W. VIOLATION NOTICE**NAME: WOOLEMS INC DATE: 12-20-2022JOB ADDRESS: 346 SEABREEZE AVE Palm Beach FL

- | | |
|---|-----------------------------------|
| ☒ Working in right-of-way without permit | \$ 150 X <u>1</u> = <u>150.00</u> |
| ☐ Failure to have permit on job | \$ 150 X _____ = _____ |
| ☐ Construction parking without permit*
1 st = \$150 2 nd = \$250 and thereafter = \$500 | \$ 150 X _____ = _____ |
| ☐ Inadequate Maintenance of Traffic | \$ 150 X _____ = _____ |
| ☐ Right-of-way littered by site dirt or debris | \$ 150 X _____ = _____ |
| ☐ Failure to maintain safe sidewalk | \$ 150 X _____ = _____ |
| ☐ Failure to carry-out permit terms/conditions | \$ 150 X _____ = _____ |
| ☐ Storage of materials in right-of-wy | \$ 150 X _____ = _____ |
| ☐ Use of right-of-way as work area | \$ 150 X _____ = _____ |
| ☐ Damage to infrastructure in right-of-way | \$ 150 X _____ = _____ |
| ☐ Dewatering without a permit | \$ 150 X _____ = _____ |
| ☐ Illegal discharges to Town sewers** | \$ 500 X _____ = _____ |
| ☐ Other _____ | \$ _____ X _____ = _____ |
| ☐ 2nd and added days of violation, double fine | \$ _____ X _____ = _____ |

TOTAL FINE: 150.00

Total fine to be paid within 10 working days to: Town of Palm Beach, **Finance Dept.**, P.O. Box 2029, Palm Beach, FL 33480, may also be paid in person at 360 S. County Road, Palm Beach, FL 33480. Please attach a copy of this violation with payment, check must reference violation number. No further permits will be issued until fine is paid. Should you wish to contest this violation call the Police Department at 561-838-5454.

*Parking violations are per vehicle per day. Parking placard must be displayed in vehicle.

**Fine plus clean-up cost.

***Includes but not limited to:

Dumpster in Right of Way \$100 per incident.

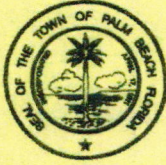
Right of Way restoration - \$30 per day until restored.

ISSUER: J. Felix / 9080

white/violator

yellow/PW

pink/issuer



PUBLIC WORKS DEPARTMENT
(561) 838-5440

R.O.W. VIOLATION NOTICE

NAME: Woolens DATE: 12-22-22

JOB ADDRESS: 346 Seabreeze

- | | |
|--|--------------------------------|
| ☐ Working in right-of-way without permit | \$ 150 X _____ = _____ |
| ☐ Failure to have permit on job | \$ 150 X _____ = _____ |
| ☒ Construction parking without permit*
1 st = \$150 2 nd = \$250 and thereafter = \$500 | \$ 150 X <u>2</u> = <u>200</u> |
| ☐ Inadequate Maintenance of Traffic | \$ 150 X _____ = _____ |
| ☐ Right-of-way littered by site dirt or debris | \$ 150 X _____ = _____ |
| ☐ Failure to maintain safe sidewalk | \$ 150 X _____ = _____ |
| ☐ Failure to carry-out permit terms/conditions | \$ 150 X _____ = _____ |
| ☐ Storage of materials in right-of-way | \$ 150 X _____ = _____ |
| ☐ Use of right-of-way as work area | \$ 150 X _____ = _____ |
| ☐ Damage to infrastructure in right-of-way | \$ 150 X _____ = _____ |
| ☐ Dewatering without a permit | \$ 150 X _____ = _____ |
| ☐ Illegal discharges to Town sewers** | \$ 500 X _____ = _____ |
| ☐ Other _____ | \$ _____ X _____ = _____ |
| ☐ 2nd and added days of violation, double fine | \$ _____ X _____ = _____ |

Parking passes expired TOTAL FINE: 200

Total fine to be paid within 10 working days to: Town of Palm Beach, Finance Dept., PO Box 2029, Palm Beach, FL 33480, may also be paid in person at 360 S. County Road, Palm Beach, FL 33480. Please attach a copy of this violation with payment, check must reference violation number. No further permits will be issued until fine is paid. Should you wish to contest this violation call the Public Works Office at 561-838-5440.

* Parking violations are per vehicle per day. Parking placard must be displayed in vehicle.

** Fine plus clean-up cost.

*** Includes but not limited to:

Dumpster in Right of Way - \$100 per incident.

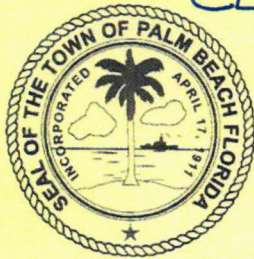
Right of Way restoration - \$30 per day until restored.

ISSUER: R. B.

white/violator

yellow/PW

pink/issuer



CE 22-2312

PD- 00628

POLICE DEPARTMENT
(561) 838-5454**R.O.W. VIOLATION NOTICE**NAME: WoburnsDATE: Dec 23, 2022JOB ADDRESS: 340 Seabreeze

- | | |
|---|--|
| ☐ Working in right-of-way without permit | \$ 150 X _____ = _____ |
| ☐ Failure to have permit on job | \$ 150 X _____ = _____ |
| ☐ Construction parking without permit*
1 st = \$150 2 nd = \$250 and thereafter = \$500 | \$ 150 X _____ = _____ |
| ☐ Inadequate Maintenance of Traffic | \$ 150 X _____ = _____ |
| ☐ Right-of-way littered by site dirt or debris | \$ 150 X _____ = _____ |
| ☐ Failure to maintain safe sidewalk | \$ 150 X _____ = _____ |
| ☐ Failure to carry-out permit terms/conditions | \$ 150 X _____ = _____ |
| ☐ Storage of materials in right-of-wy | \$ 150 X _____ = _____ |
| ☐ Use of right-of-way as work area | \$ 150 X _____ = _____ |
| ☐ Damage to infrastructure in right-of-way | \$ 150 X _____ = _____ |
| ☐ Dewatering without a permit | \$ 150 X _____ = _____ |
| ☐ Illegal discharges to Town sewers** | \$ 500 X _____ = _____ |
| ☒ Other <u>Construction Hours</u>
<u>24-2021 / 4-2022</u> | \$ <u>250</u> X <u>1</u> = <u>250.00</u> |
| ☐ 2nd and added days of violation, double fine | \$ _____ X _____ = _____ |

working during an observed town
holiday. Christmas eve

TOTAL FINE: 250.00

Total fine to be paid within 10 working days to: Town of Palm Beach, **Finance Dept.**, P.O. Box 2029, Palm Beach, FL 33480, may also be paid in person at 360 S. County Road, Palm Beach, FL 33480. Please attach a copy of this violation with payment, check must reference violation number. No further permits will be issued until fine is paid. Should you wish to contest this violation call the Police Department at 561-838-5454.

*Parking violations are per vehicle per day. Parking placard must be displayed in vehicle.

**Fine plus clean-up cost.

***Includes but not limited to:

Dumpster in Right of Way \$100 per incident.

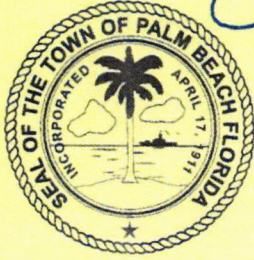
Right of Way restoration - \$30 per day until restored.

ISSUER: A. OLIVARES 02722022-357-064

white/violator

yellow/PW

pink/issuer



CE 22-2335 PD-01472

POLICE DEPARTMENT
(561) 838-5454

R.O.W. VIOLATION NOTICE

NAME: Woolens Inc. DATE: 12/27/2022

JOB ADDRESS: 346 Seabreeze Ave Palm Beach FL

- | | |
|--|-----------------------------------|
| ☐ Working in right-of-way without permit | \$ 150 X _____ = _____ |
| ☐ Failure to have permit on job | \$ 150 X _____ = _____ |
| ☒ Construction parking without permit*
1 st = \$150 2 nd = \$250 and thereafter = \$500 | \$ 150 X <u>3</u> = <u>450.00</u> |
| ☐ Inadequate Maintenance of Traffic | \$ 150 X _____ = _____ |
| ☐ Right-of-way littered by site dirt or debris | \$ 150 X _____ = _____ |
| ☐ Failure to maintain safe sidewalk | \$ 150 X _____ = _____ |
| ☐ Failure to carry-out permit terms/conditions | \$ 150 X _____ = _____ |
| ☐ Storage of materials in right-of-wy | \$ 150 X _____ = _____ |
| ☐ Use of right-of-way as work area | \$ 150 X _____ = _____ |
| ☐ Damage to infrastructure in right-of-way | \$ 150 X _____ = _____ |
| ☐ Dewatering without a permit | \$ 150 X _____ = _____ |
| ☐ Illegal discharges to Town sewers** | \$ 500 X _____ = _____ |
| ☐ Other _____ | \$ _____ X _____ = _____ |
| ☐ 2nd and added days of violation, double fine | \$ _____ X _____ = _____ |

FL-DSH151-3215241-JXEL38
TV

TOTAL FINE: 450

Total fine to be paid within 10 working days to: Town of Palm Beach, **Finance Dept.**, P.O. Box 2029, Palm Beach, FL 33480, may also be paid in person at 360 S. County Road, Palm Beach, FL 33480. Please attach a copy of this violation with payment, check must reference violation number. No further permits will be issued until fine is paid. Should you wish to contest this violation call the Police Department at 561-838-5454.

*Parking violations are per vehicle per day. Parking placard must be displayed in vehicle.

**Fine plus clean-up cost.

***Includes but not limited to:

Dumpster in Right of Way \$100 per incident.

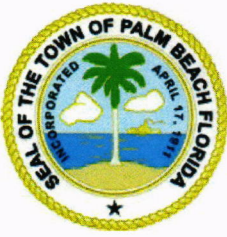
Right of Way restoration - \$30 per day until restored.

ISSUER: J. Felix / 9080 CIV # 2066-361083

white/violator

yellow/PW

pink/issuer



TOWN OF PALM BEACH

Planning, Zoning & Building Department

December 21, 2022

Via email & mail: adial@woolemsinc.com; kyle@robertspooldesign.com;
darryl@robertspooldesign.com

Woolems, Inc.
% James Woolems
2301 Centrepark West Dr, Suite 150
West Palm Beach, FL 33405

Re: **STOP WORK ORDER PENDING** - 3-Strike Rule Citations – 346 Seabreeze Ave, B-21-92436

As you know, the Town of Palm Beach Standards Applicable To Public Rights-Of-Way And Easements Within The Town Of Palm Beach regulates the number of construction-related vehicles that can be parked on Town streets in conjunction with building project sites within the Town. Attached to all construction permits issued to a job is information regarding these regulations.

This letter is to serve as notice that on **THREE** separate occasions you have received citations:
Strike 3 December 20, 2022 (PD-01471 – Working in right-of-way without permit)
Strike 2 October 5, 2022 (PW-6491 – Inadequate Maintenance of Traffic, Failure to maintain safe sidewalk, Failure to carry-out permit terms/conditions-construction parking)
Strike 1 April 8, 2022 (PW-6387 – Construction parking without a permit)

Therefore, under the Town's rules (referred to as the "3-strike" rule), the Director of Public Works and Police Chief have notified the Planning, Zoning & Building Department of these violations, and requested that a "**Stop Work**" order be issued as allowed by Section 18-204 of Town Code.

Per Town Resolution No 001-2022, because you have received these strikes, a fine in the amount of \$500.00 is being imposed and is also payable immediate to the Town of Palm Beach. This fine is in addition to all right-of-way fines referenced above. Invoice #81824 is attached.

An appeal to the Chief of Police needs to be submitted in writing within 7 days of the issuance of your strike. If an appeal is denied or is not filed in a timely fashion, a "Stop Work" order will be issued by the Building Official effective the end of the working day December 27, 2022. After that date, no work may be performed at the site under any permits issued by the Town of Palm Beach.

Post Office Box 2029 * 360 South County Road * Palm Beach, FL 33480 * (561) 838-5430

All requests to lift a “**Stop Work**” order would need to be decided by the Town Council. The next Town Council meeting date is Tuesday, January 10, 2023. In order for this item to be considered at that meeting, you would need to submit a written request to me no later than **Wednesday, January 4, 2023, prior to 5:00 PM.**

Truly yours,

Wayne Bergman

Wayne Bergman
Director, Planning, Zoning & Building Department

cc: Richard S & Margot S Stephenson, 346 Seabreeze Ave, Palm Beach, FL 33480
K. Blouin, Town Manager
H. Paul Brazil, Public Works Director
Nicholas Caristo, Police Chief
Benjamin Alma, Parking and Code Enforcement Manager

Wayne Bergman

From: Amadou Dial <adial@woolemsinc.com>
Sent: Tuesday, December 27, 2022 8:47 PM
To: Nicholas Caristo
Cc: Wayne Bergman; Debby Moody; Amadou Dial
Subject: 346 Seabreeze Avenue - B-21-92436 - APPEAL
Attachments: 346 Seabreeze Ave STOP WORK ORDER.pdf

Importance: High

*****Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.*****

Dear Chief Caristo,

I am writing this email to appeal for the above captioned Citation. Woolems is the General Contractor under this permit, however this latest Citation and 3rd strike was caused by a subcontractor (Art Deco Plaster) directly hired by the property Owner and they scheduled a delivery of stucco material without advanced notice to us.

As a GC, we recognize and accept the responsibility of making sure everyone and anyone who work on the property comply with the Town Regulations, regardless if they work for us or not. However it is fair to recognize it is always challenging to control trades who are not under our command.

Woolems contractual scope of work consists of a pool and partial interior renovation of 1st floor common areas. We are about a month from completing our work. The pool plumbing inspections have passed and now ready to proceed with the finishes.

The interior is 90% complete and should be finalized within 2 weeks of time.

Based on that we plead to immediately pay all the fines yet for your office to waive the 3rd strike to allow us to finish up. In our ends will add extra resources to ensure no more violation occurs throughout the remaining of the project (30 days maximum).

Thank you in advance for your time and consideration of this matter.

Amadou Dial

Amadou Dial | Project Executive

2301 Centrepark West Drive #150 | West Palm Beach, FL 33409

Office: 561.835.0401 | **Facsimile:** 561.835.0403 | **Cellular:** 561.891.1116

adial@woolemsinc.com | **www.woolems.com**

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Amadou Dial | Project Executive

2301 Centrepark West Drive #150 | West Palm Beach, FL 33409

Office: 561.835.0401 | Facsimile: 561.835.0403 | Cellular: 561.891.1116

adial@woolemsinc.com | www.woolems.com

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TOWN OF PALM BEACH POLICE DEPARTMENT

DEDICATED TO EXCELLENCE



December 28, 2022

Woolems, Inc.
Mr. Amadou Dial, Project Executive
2301 Centrepark West Drive #150,
West Palm Beach, FL 33409

Re: Code Violation – 346 Seabreeze Avenue, Palm Beach, FL 33480

Dear Mr. Dial,

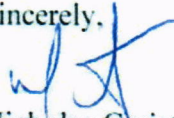
I am in receipt of your appeal request.

Town Ordinance allows ten days after each violation to contest the violation. You have elected to contest R.O.W. Violation # 01471. It was issued on December 20, 2022, for working in a right-of-way without a permit.

After thorough review of the Town Ordinances and the Town's Right-of Way Manual, along with the violation, the request for dismissal of the violation is denied.

With the recent changes in Town ordinances and the Town's commitment to strongly enforce construction site violations, I have an obligation to ensure consistencies in the enforcement and appeal process. You may contact the Planning, Zoning, and Building Department for any next steps in appearing before Town Council or restarting work.

Sincerely,


Nicholas Caristo
Chief of Police

cc: Paul Brazil, Director of Public Works
Wayne Bergman, Director of Planning, Zoning and Building



TOWN OF PALM BEACH
Finance Department
360 South County Road
PO Box 2029
Palm Beach, FL 33480
(561) 838-5444

INVOICE

81212

Page 1 of 1

DATE	11/08/2022
ACCOUNT	MI-000316
AMT DUE	250.00

WOOLEMS INC
2301 CENTREPARK WEST DR
Unit 150
WEST PALM BEACH, FL 33405

AMOUNT PAID _____



PAY YOUR STATEMENT ONLINE AT: [HTTPS://TOWNOFPALMBEACH.COM/EDENAR](https://TOWNOFPALMBEACH.COM/EDENAR)

TOWN OF PALM BEACH

MAKE CHECKS PAYABLE TO TOWN OF PALM BEACH
PLEASE DETACH AND RETURN WITH YOUR REMITTANCE

DESCRIPTION	AMOUNT
FINE 3-STRIKE RULE STRIKE 2 FINE for Strike 2, 346 Seabreeze Ave	250.00
Total Amount Due:	250.00
ACCOUNT NO. MI-000316	PAYABLE UPON RECEIPT 250.00

Please Remit to: TOWN OF PALM BEACH
Finance Department
360 South County Road
PO Box 2029
Palm Beach, FL 33480
01-10-2023 TCM Backup

Pay your Statement online at: <https://TownofPalmBeach.com/EDENAR>
Log in or Register as a New User and connect to your account by entering your Account No and Invoice number.



TOWN OF PALM BEACH
Finance Department
360 South County Road
PO Box 2029
Palm Beach, FL 33480
(561) 838-5444

INVOICE

81824

Page 1 of 1

DATE	12/21/2022
ACCOUNT	MI-000316
AMT DUE	500.00

WOOLEMS INC
2301 CENTREPARK WEST DR
Unit 150
WEST PALM BEACH, FL 33405

AMOUNT PAID _____



PAY YOUR STATEMENT ONLINE AT: [HTTPS://TOWNOFPALMBEACH.COM/EDENAR](https://TOWNOFPALMBEACH.COM/EDENAR)

TOWN OF PALM BEACH

MAKE CHECKS PAYABLE TO TOWN OF PALM BEACH
PLEASE DETACH AND RETURN WITH YOUR REMITTANCE

DESCRIPTION	AMOUNT
FINE 3-STRIKE RULE STRIKE 3 Fine for Strike 3 - 346 Seabreeze Ave	500.00
Total Amount Due:	500.00
ACCOUNT NO. MI-000316	PAYABLE UPON RECEIPT 500.00

Please Remit to: TOWN OF PALM BEACH
Finance Department
360 South County Road
PO Box 2029
Palm Beach, FL 33480

Pay your Statement online at: <https://TownofPalmBeach.com/EDENAR>
Log in or Register as a New User and connect to your account by entering your Account No and Invoice number.

Wayne Bergman

From: Richard Stephenson <moose65@me.com>
Sent: Tuesday, January 03, 2023 4:16 PM
To: Wayne Bergman
Cc: Margot Stephenson
Subject: Re: 346 Seabreeze Ave

*****Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.*****

Wayne - I apologize for our having to meet under these circumstances and over email.

We are aware of both of the most recent tickets and they are strikes on us as owners, and not Woolems.

On December 23 we were away for Christmas and were not aware that it was a construction work holiday, nor that the wall stucco fellow we had hired would be working.

Our return flight on December 26 for our family of 6 was cancelled (among the many thousands across the country). Amidst the stress and rescheduling (6 people/kids; 5 different flights), I forgot that the tv guy(s) was coming to install a new tv on the morning of the 27th.

When I arrived the afternoon of 27th and saw the infraction notices I went straight to the town hall. I spoke to a woman who was very helpful, and who directed me to the police station. There was no one there except to accept payment of the tickets which I paid.

Above are the facts but not excuses. Both the 23rd and 27th incidents are our responsibilities as home owners. Margot and I want to communicate in person our better understanding of the rules, and why we will do our utmost to avoid any repeat offenses.

If anyone has any further questions or concerns my cell is +1 914 217 9890, or alternatively, I'd be happy to meet in person.

Sincerely,

Richard

TOWN OF PALM BEACH

Town Council Meeting on: January 10, 2023

Section of Agenda

Ordinances - First Reading

Agenda Title

ORDINANCE NO. 001-2023 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Providing for an Amendment to the Town's Budgets Adopted for the Fiscal Year Commencing October 1, 2022, and Providing an Effective Date.

Presenter

Robert Miracle, Deputy Town Manager Finance & Administration

ATTACHMENTS:

- ▣ **Memorandum Dated December 28, 2022, from Robert Miracle, Deputy Town Manager**
- ▣ **Ordinance No. 001-2023**
- ▣ **Exhibit A**

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 10, 2023

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

From: Robert Miracle, Deputy Town Manager Finance and Administration

Re: Amendment to the General Fund FY23 Budget
Ordinance No. 001-2023

Date: December 28, 2022

STAFF RECOMMENDATION

Staff recommends that the Town Council approve Ordinance No. 001-2023, which amends the FY23 General Fund budget.

GENERAL INFORMATION

A budget amendment is required to appropriate additional funds in the General Fund for the balance of the estimated costs related to the Zoning Code Review including charrettes, drafting the code changes and meetings to present the updates to the stakeholders. The total budget is estimated to be around \$900,000 including the traffic study. The traffic study is on the Town Council meeting agenda to be awarded in January including a contingency allocation of \$200,000. The remaining project balance of \$700,000 is partially funded with FY22 encumbered funds and the balance of \$455,000 is included in the attached budget amendment.

FUNDING/FISCAL IMPACT

The Ordinance will amend the General Fund budget (001) by \$455,000 using unassigned reserves.

TOWN ATTORNEY REVIEW

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

Attachments

Jll

cc: Carolyn Stone, Assistant Town Manager
Wayne Bergman, Planning, Zoning and Building Director
John C. Randolph, Town Attorney

ORDINANCE NO. 001-2023

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, PROVIDING FOR AN AMENDMENT TO THE TOWN'S BUDGETS ADOPTED FOR THE FISCAL YEAR COMMENCING OCTOBER 1, 2022, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, it was necessary for the Town of Palm Beach to adopt budgets for the fiscal year commencing October 1, 2022; and

WHEREAS, the Town Council of the Town of Palm Beach, Florida, deems it necessary and appropriate to amend said budgets to provide appropriations adequate for the authorization of expenditures necessary for conducting Town operations for the fiscal year ending September 30, 2023; and

WHEREAS, the budget amendment is necessary for the General Fund; and

WHEREAS, said budget amendments are required to be approved by ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

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

Section 2. The General Fund budgets for the fiscal year commencing October 1, 2022, is hereby amended, and adopted pursuant to Exhibits "A" attached hereto and made a part of this ordinance.

Section 3. Effective Date. This ordinance shall take effect immediately upon passage and approval as provided by law.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of the Palm Beach on first reading this 10th day of January, 2023, and for second and final reading on this 14th day of February, 2023.

Danielle H. Moore, Mayor

Margaret A. Zeidman, Town Council President

Bobbie Lindsay, Council President Pro Tem

Julie Araskog, Town Council Member

ATTEST:

Edward A. Cooney, Town Council Member

Pat Gayle-Gordon, Acting Town Clerk

Lewis S.W. Crampton, Town Council Member

Town of Palm Beach, Florida
General Fund
Budget Amendment

			Ordinance No.	FY2023
			001-2023	Amended
	Budget FY2022	Budget FY2023	Amendment	Budget
Revenues				
Ad Valorem Taxes	\$59,663,700	\$62,919,808		\$62,919,808
Non Ad Valorem Taxes	6,710,500	6,672,100		\$6,672,100
Licenses & Permits	4,419,233	5,054,400		\$5,054,400
Intergovernmental	1,121,700	1,181,000		\$1,181,000
Charges for Services	6,172,500	7,823,200		\$7,823,200
Fines and Forfeitures	1,025,500	943,200		\$943,200
Investment Earnings	359,811	235,000		\$235,000
Miscellaneous Revenues	499,500	290,700		\$290,700
Interfund Transfers	536,665	645,465		\$645,465
Transfer From Fund Balance	5,431,464	3,429,500	455,000	\$3,884,500
Transfer from Building Fund	3,200,000	5,519,456		\$5,519,456
Total Revenues	\$89,140,573	\$94,713,829	\$455,000	\$95,168,829
Expenditures				
Department				
Legislative	\$152,500	\$152,500		\$152,500
General Government	1,004,050	1,029,904		\$1,029,904
Town Manager	947,587	1,102,989		\$1,102,989
Town Clerk	357,145	448,522		\$448,522
Advice and Litigation	365,000	365,000		\$365,000
Human Resources	729,523	849,784		\$849,784
Information Systems	3,072,318	3,846,137		\$3,846,137
Finance	1,865,675	2,002,342		\$2,002,342
Recreation and Tennis	2,049,732	2,268,079		\$2,268,079
Planning/Building/Zoning	1,579,265	1,806,275	\$455,000	\$2,261,275
Library	363,230	374,127		\$374,127
Fire-Rescue	15,346,841	16,205,680		\$16,205,680
Police	16,877,684	18,525,478		\$18,525,478
Public Works	16,700,542	19,104,155		\$19,104,155
Contingency	600,000	600,000		\$600,000
Transfer to Other Funds				\$0
Transfer to CIP	8,428,200	6,871,020		\$6,871,020
Transfer to Coastal	4,920,310	5,264,732		\$5,264,732
Transfer to UU Fund	176,550	191,116		\$191,116
Transfer to Debt Service	5,676,719	5,680,666		\$5,680,666
Transfer to Risk Fund	2,173,487	2,274,106		\$2,274,106
Transfer to OPEB Trust Fund	334,215	331,217		\$331,217
Extraordinary Transfer to Retirement Fund	5,420,000	5,420,000		\$5,420,000
Total General Fund Expenditures	\$89,140,573	\$94,713,829	\$455,000	\$95,168,829
Revenues Over/(Under) Expenditures	\$0	\$0	\$0	\$0

TOWN OF PALM BEACH

Town Council Meeting on: January 10, 2023

Section of Agenda

Ordinances - First Reading

Agenda Title

ORDINANCE NO. 002-2023 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 82 of the Town Code of Ordinances Relating to Personnel, at Article II, Employee Benefits, Division 2, Retirement System; Amending Subdivision I, in General, by Adding a New Section 82-77, Reemployment After Retirement; Amending Subdivision V, General Employees and Lifeguards, By Amending Section 82-147, Worker's Compensation Benefits Offset; Return of Retirant to Town Employment; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.

Presenter

Gillian Barth, Director of People & Culture

ATTACHMENTS:

- ▢ **Memorandum dated January 3, 2023 from Gillian Barth, Director of People & Culture**
- ▢ **Ordinance 002-2023 Amendment to Chapter 82, Personnel**

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 10, 2023

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

From: Gillian Barth, Director of People & Culture



Re: Pension Ordinance Change Regarding In-Service Distributions
Ordinance No. 002-2023

Date: January 3, 2023

STAFF RECOMMENDATION

Staff recommends that the Town Council approve an amendment to Chapter 82 of the Town of Palm Beach Code of Ordinances (002-2023) to allow for re-employment of retirees by the Town of Palm Beach on a full, part-time or temporary basis after normal retirement and separation and receive an in-service distribution of their retirement benefits, including their DROP distribution during their period of re-employment as permitted by the Internal Revenue Code and applicable Treasury Regulations.

GENERAL INFORMATION

Currently, Chapter 82 of the Town of Palm Beach Ordinances, associated administrative policies and Town of Palm Beach Benefits Plan allows for reemployment of retirees, following a 30-day period of disengagement, when it is in the best interest of the Town, recommended by the Departmental Director and approved by the Town Manager. Under the current restrictions of the Pension Plan, employees do not receive retirement or DROP benefits during their post-retirement employment, nor do they receive certain categories of leave. They are rehired under a specific at-will contract.

It has been determined that the Town would benefit from continued service from some retirees, including those who have retired due to constraints of the Town's DROP program. The Town of Palm Beach is not alone. Other Municipalities are also looking to identify options whereby such employees can be engaged in extended service, on an as needed basis, and earn their retirements benefits while fully complying with IRS regulations.

Currently, IRS rules permit employees to receive their pension benefits after reaching normal retirement if the pension plan has an in-service distribution provision. An in-service distribution provision can be broad enough to allow all (or some) employees who reach normal retirement age to start receiving benefits without terminating employment or it can be limited to just those employees who have been re-employed after retirement to receive their retirement benefits during their period of re-employment.

The Town of Palm Beach is proposing that in-service distributions be permitted at the Town Manager's discretion, or in the case of the Town Manager, at the Town Council's discretion. Under this new provision:

- The new section will apply only to members who are re-employed as approved by the Town Manager in compliance with the Town's policy.
- It will allow the Town to rehire members after they complete the DROP.
- It will permit retirees to receive their DROP distribution during their period of re-employment.
- Members will be required to have a break in service to receive retirement benefits. Because the retirant had a break in service, he or she will not have the same seniority or employment benefits they had prior to retirement
- The retiree will not be able to participate in the plan during their period of re-employment. (This does not prevent the Town from offering retirement benefits in the form of a contribution to a Defined Contribution plan.)
- Retirees who retire under the early retirement provision will not be eligible for an in-service distribution under this section.
- This ordinance represents a change in benefits and will have to be bargained. Therefore, this new section applies only to non-bargaining unit employees until agreed to by the union.
- Once the ordinance is adopted, the Town's Retirement after re-employment policy will need to be amended.

FUNDING/FISCAL IMPACT

A full financial impact assessment will be prepared by the Town's actuary before the second reading of this Ordinance. The primary difference between a current and rehired retiree package will be that of salary rate since former tenured staff are often at the top of their PayScale. However, this provision allows for flexibility and negotiation in a rehired salary rate.

TOWN ATTORNEY REVIEW

The Ordinance has been prepared and reviewed by the Town's Pension Attorneys. The Town Attorney has also reviewed the documents

Attachments

GB:jj

cc: Jane Le Clainche, Director of Finance
Robert Miracle, Deputy Town Manager Finance & Administration
Carolyn Stone, Deputy Town Manager, Business Enterprise & Culture

ORDINANCE NO. 002-2023

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 82 OF THE TOWN CODE OF ORDINANCES RELATING TO PERSONNEL, AT ARTICLE II, EMPLOYEE BENEFITS, DIVISION 2, RETIREMENT SYSTEM; AMENDING SUBDIVISION I, IN GENERAL, BY ADDING A NEW SECTION 82-77, REEMPLOYMENT AFTER RETIREMENT; AMENDING SUBDIVISION V, GENERAL EMPLOYEES AND LIFEGUARDS, BY AMENDING SECTION 82-147, WORKER'S COMPENSATION BENEFITS OFFSET; RETURN OF RETIRANT TO TOWN EMPLOYMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

Section 1. The Code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 82, Personnel; Article II, Employee Benefits; Division 2, Retirement System; Subdivision I. – In General; by adding a new Section 82-77 to read as follows:

Sec. 82-77. – Reemployment After Retirement

Notwithstanding any other provision in this Plan to the contrary, effective [effective date of ordinance], any retirant who is re-employed by the Town on a full-time or part-time basis after normal retirement and separation from Town employment may receive an in-service distribution of their retirement benefits, including their DROP distribution, during their period of re-employment, as permitted by the Internal Revenue Code and applicable Treasury Regulations. A retirant who is receiving an in-service distribution in accordance with this section shall not be eligible to participate in this Plan and shall not accrue any additional retirement benefit under this Plan during their period of re-employment. Notwithstanding the foregoing, the provisions of this section shall not apply to participants who are employed in positions included in a bargaining unit on [effective date of ordinance] until such time as the provisions of this section are implemented through the collective bargaining process.

Section 2. The Code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 82, Personnel; Article II, Employee Benefits; Division 2, Retirement System; Subdivision V – General Employees and Lifeguards; by amending Section 82-147 to read as follows:

Sec. 82-147. Worker's compensation benefits offset; ~~return of retirant to town employment.~~

(a) The amount of pension paid a retirant or beneficiary shall be reduced by the amount of any worker's compensation benefit, except medical expense benefits, paid on account of a retirant's or a deceased member's employment with the town. In no case shall the amount of reduced pension be less than the amount of pension supported by the retirant's or the deceased member's accumulated contributions at time of retirement or death.

~~(b) — If a retirant is re-employed by the town on other than a contractual or a fee basis, payment of the pension shall be suspended during the period of re-employment.~~

Section 3. 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 4. 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 5. Codification.

This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach.

Section 6. 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 ____ day of _____, 2023, and for second and final reading on this ____ day of _____, 2023.

Danielle H. Moore, Mayor

Margaret A. Zeidman, Town Council President

Bobbie Lindsay, Council President Pro Tem

Julie Araskog, Town Council Member

ATTEST:

Edward A. Cooney, Town Council Member

Pat Gayle-Gordon, Acting Town Clerk

Lewis S.W. Crampton, Town Council Member