

TENTATIVE:
SUBJECT TO
REVISION



TOWN OF PALM BEACH

Town Manager's Office
TOWN COUNCIL MEETING

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

AGENDA

JANUARY 10, 2017

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

Mayor Gail L. Coniglio
Michael J. Pucillo, President
Richard M. Kleid, President Pro Tem
Bobbie Lindsay
Danielle H. Moore
Margaret A. Zeidman

II. INVOCATION AND PLEDGE OF ALLEGIANCE

III. APPROVAL OF AGENDA

IV. COMMENTS OF MAYOR GAIL L. CONIGLIO

V. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

VI. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

VII. APPROVAL OF CONSENT AGENDA (SEE NOTE 5)

A. MINUTES

B. RESOLUTIONS

1. RESOLUTION NO. 01-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order to Duval Ford for the Purchase of Two (2) 2017 Ford Escape Vehicles and Associated Equipment in the Total Amount of \$57,982.00 in Accordance With the Florida Sheriffs Association Contract No. FSA16-Vel24.0, and Establishing a Total Budget of \$57,982.00 in the 2017 Equipment Replacement Program.

Kirk W. Blouin, Director of Public Safety

2. RESOLUTION NO. 03-2017 A Resolution of the Mayor and Town Council of the Town of Palm Beach, Palm Beach County, Florida, Supporting the State Legislature's Efforts to Amend Section 403.7033, Under House Bill 93 and Companion Senate Bill 162, Which Amendments Would Provide for Local Regulation and Enforcement of Plastic Bags Under the State's Proposed Guidelines; Alternatively, Should the Statute not be Amended, the Town Council Requests the Repeal of Section 403.7033, Florida Statutes, so that Local Governments are no Longer Preempted from Enacting Appropriate Legislation Relating to the Regulation of Plastic Bags.

Jay Boodheshwar, Deputy Town Manager

3. RESOLUTION NO. 04-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing and Approving a Five Year Purchase Contract to Taser International for 70 Taser 60 Models with Accessories and Equipment Per Quotation No. Q-89649-1; and Authorizing and Approving a Purchase Order in the Amount of \$21,832.62 Representing the First Year of Payment to Include Shipping and Handling; and Authorizing and Approving Four Subsequent Payments to Taser International in the Amount of \$26,040.00 each for a Grand Total of \$125, 992.62; and Approving an Overall Budget of \$130,000; Subject to Appropriation of Funds in Fiscal Years 2018 - 2021.

Kirk W. Blouin, Director of Public Safety

C. OTHER

1. Approval of Selection Committee Recommendation for RFP No. 2016-48, Investment Consultant for the OPEB Trust.
Jane Struder, Director of Finance
2. Request to Consider Ordinance Nos. 1-2017, 2-2017 and 3-2017 Prior to 5:00 p.m. at a Public Hearing
John S. Page, Director of Planning, Zoning & Building
3. Request to Authorize the Ordinances, Rules, and Standards Committee to Consider Potential Amendments to the Town Code of Ordinances at Chapter 106, Article VII, Special Events on Public

Property, and Section 10-10, Temporary (Animal) Permits.

Susan A. Owens, MMC, Town Clerk

4. Authorization of Ordinance, Rules and Standards Committee to Study Amending Section 38-35 of the Town Code of Ordinances, Relative to Service Charge for False Alarms

Kirk Blouin, Director of Public Safety

5. Designation of the Mar-a-Lago Property (1100 South Ocean Boulevard) as a Duly Designated Location for the Take-Off and Landing of Helicopters During President-Elect Donald J. Trump Term(s) of Office as President of the United States Pursuant to Section 14-34 of the Town Code of Ordinances

Thomas G. Bradford, Town Manager

VIII. BOARD/COMMISSION ANNUAL REPORT

- A. Recreation Advisory Commission Annual Presentation

Pamela McIver, Recreation Advisory Commission Chair

IX. COMMITTEE REPORTS

- A. Report of the Finance and Taxation Committee Meeting of December 1, 2016

Michael J. Pucillo, Chair

- B. Report of the Public Safety Committee Meeting of December 6, 2016

Margaret Zeidman, Chair

- C. Report of the Ordinances, Rules, & Standards Committee Meeting of December 8, 2016

Bobbie Lindsay, Chair

X. REGULAR AGENDA

- A. **Old Business**

1. Recreation Center Update
Beth Zickar, Director of Recreation

TIME CERTAIN: 10:30 a.m.

a. Update on Proposed Recreation Center and Improvements to Seaview Park

b. Revised Architectural Plans, Timeline and Costs

c. Survey

d. Ratification of Selection Committee Recommendations for Construction Manager At-Risk (CMAR) Services for Seaview Park and Palm Beach Community Center Improvements - RFQ No. 2016-45.

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

2. Discussion of Potential General Employee Pension Changes
TIME CERTAIN: 11:30 a.m.
Jane Struder, Director of Finance
3. Status Report Regarding Potential Sale of 5976 Okeechobee Blvd
Jay Boodheshwar, Deputy Town Manager
4. Consideration of Scheduling an Attorney/Client Session Regarding The Coalition of Immokalee Workers, Inc., vs Town of Palm Beach, Case No. 16-CV-80284-Rosenberg/Brannon, Pending in the United States District Court, Southern District of Florida. Discussion of this Matter to Begin Immediately Following this Regular Town Council Meeting in the Town Council Chambers, 360 South County Road, Palm Beach, Florida. Attorney/Client Session Attendees: Mayor Gail L. Coniglio, Town Council Members Richard M. Kleid, Bobbie Lindsay, Danielle H. Moore, Michael J. Pucillo, Margaret A. Zeidman; Town Manager Thomas G. Bradford, Attorney John C. Randolph, Margaret L. Cooper, Esq., and Court Reporter from Pleasanton and Marsaa Court Reporting.
John C. Randolph, Town Attorney

B. New Business

1. Town Docks Update
Thomas G. Bradford, Town Manager
2. RESOLUTION NO. 02-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida Urging the Governor of the State of Florida, the South Florida Water Management District and the United States Fish and Wildlife Service To Work Cooperatively To Manage Exotics and Maintain The Arthur R. Marshall Loxahatchee National Wildlife Refuge.
TIME CERTAIN: 1:00 p.m.
Thomas G. Bradford, Town Manager
3. Coastal Update
H. Paul Brazil, P.E., Director of Public Works
 - a. Shore Line Update
4. Consideration of Request to Reserve Phipps Park's North Parking Lot for Private Use on February 11, 2017, and Approval Process for Future Related Requests.
Susan A. Owens, MMC, Town Clerk
5. Townwide Undergrounding Project Update
Thomas G. Bradford, Town Manager
6. Appeal of Right of Way Permit Denial for Wells Fargo Bank located at 255 S. County Road
Thomas G. Bradford, Town Manager

C. Matters Pulled From Consent Agenda: If needed

XI. ORDINANCES

A. Second Reading

1. ORDINANCE NO. 26-2016 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 106, Streets, Sidewalks and Other Public Places; Article V, Sidewalks; Section 106-156, Regarding Duty to Maintain Sidewalks and Gutters Free of Debris, Encumbrances and Obstructions; Providing a Definition of Debris, Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.

Jay Boodheshwar, Deputy Town Manager

2. ORDINANCE NO. 27-2016 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Code Of Ordinances Of The Town Of Palm Beach At Chapter 66, Natural Resource Protection, Article I, In General, Section 66-2, Definitions So As To Add, Amend Or Delete Various Terms Related To Landscape And Irrigation Requirements; Amending Article Iv, Vegetation, Relating To Conditions For Landscape Design, Installation And Removal; Moving General Requirements For Landscape Design To A New Section 285; Modifying Section 66-286 Establishing Minimum Requirements For Shade Trees, Required Landscaping For Interior Parking Lots, Minimum Landscape Installation Requirements, Modifying Irrigation Standards And Requirements For Irrigation And Irrigation Systems, Providing For Requirements Related To The Submission Of Plans, And Landscape Installation And Removal Permits; Adding Section 66-287 Requiring That All Required Landscaping Be Approved By The Planning, Zoning And Building Department Prior To The Issuance Of Certificates Of Occupancy Or Completion; Adding A New Section 66-288 Requiring Protection Of Trees During Construction; Adding A New Section 66-289 Requiring Vegetation Maintenance; Adding A New Section 66-290 Providing Standards Related To Tree Trimming; Adding A New Section 66-291 Prohibiting Certain Practices Related To Tree Trimming; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

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

3. ORDINANCE NO. 28-2016 An Ordinance of The Town Council of The Town of Palm Beach, Palm Beach County, Florida, Rescinding Section 18-241 of The Town Code of Ordinances Relating To Building Board of Adjustment And Appeals In Its Entirety; Providing For Severability; Providing For Repeal of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

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

B. First Reading

1. ORDINANCE NO. 04-2017 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 70, Offenses by Creating a new Section 70-9 Entitled Balloons and Sky Lanterns Release; Providing for the Prohibition on the Release of Balloons and Sky Lanterns Within the Town; Providing Definitions Regarding the Same; Providing for Severability; Providing for Codification; Providing an Effective Date; and for Other Purposes.

Jay Boodheshwar, Deputy Town Manager

2. ORDINANCE NO. 05-2017 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending Section 2-567. Of The Town Code Of Ordinances Relating To The Creation Of An Investment Advisory Committee; Amending Subsection (G) Thereof So As To Include In The Duties Of The Investment Advisory Committee The Obligation To Act As A Citizen Oversight Committee In Regard To The One-Cent Surtax Enacted By Law; To Review The Revenues and Expenditures Of Said Surtax Proceeds By The Town And To File An Annual Report To The Town In Regard To The Committee's Duties As A Citizen Advisory Committee; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

John C. Randolph, Town Attorney

3. ORDINANCE NO. 06-2017 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending The Town Code of Ordinances at Chapter 2, Administration, Article X, Shore Protection Board at Section 2-636, so as to Create Term Limits and so as to Provide for The Appointment of Alternate Members; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.

John C. Randolph, Town Attorney

XII. ANY OTHER MATTERS

XIII. ADJOURNMENT

XIV. FUTURE MEETINGS

PLEASE TAKE NOTE:

Note 1: No written materials received after 3:30 p.m. on the Thursday immediately prior to a monthly Town Council meeting will be included in the back-up binders distributed to the Mayor and Town Council in preparation for that meeting. Written materials received after 3:30 p.m. on Thursday will be separately distributed to the Mayor and Town Council; however, depending upon the length of the materials, the time of submittal, and other circumstances, the Mayor and Town Council may not be able to read and consider such late submittals prior to acting upon the policy matter(s) which they address.

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 Systems (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, 2017

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 01-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order to Duval Ford for the Purchase of Two (2) 2017 Ford Escape Vehicles and Associated Equipment in the Total Amount of \$57,982.00 in Accordance With the Florida Sheriffs Association Contract No. FSA16-Vel24.0, and Establishing a Total Budget of \$57,982.00 in the 2017 Equipment Replacement Program.

Presenter

Kirk W. Blouin, Director of Public Safety

ATTACHMENTS:

- ▣ **Memorandum Dated December 20, 2016, From Kirk W. Blouin, Director of Public Safety**
- ▣ **Resolution No. 01-2017**
- ▣ **State Contract Pricing - Duval Ford**

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 10, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: Kirk Blouin, Director of Public Safety

Re: Approve Purchase Order to Duval Ford for Two (2) 2017 Ford Escape Vehicles and Associated Equipment
Resolution No. 001-2017

Date: December 20, 2016

STAFF RECOMMENDATION

Town staff recommends that the Town Council approve Resolution 001-2017 approving a purchase order to Duval Ford for (2) 2017 Ford Escape vehicles and associated equipment in the total amount of \$57,982.00 through the Florida Sheriffs Association Contract No. FSA16-VEL24.0.

GENERAL INFORMATION

Fire Prevention staff vehicles are on a seven (7) year useful life cycle. The two current vehicles, purchased in 2006, had their useful life and use extended for an additional three (3) years, making them ten years old. Because of significant mechanical problems, these vehicles must now be replaced.

FUNDING/FISCAL IMPACT

Funds were budgeted in the FY17 Equipment Replacement account for this purchase. There is currently \$46,000.00 in the equipment replacement account; the remaining \$11,982.00 will be taken from the general fund, account #001.40.417.526.60.64.01.

PURCHASING REVIEW

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

TOWN ATTORNEY REVIEW

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

cc: Jane Struder, Finance Director
Adis Pedraza, Purchasing Manager

RESOLUTION NO. 001-2017

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING A PURCHASE ORDER TO DUVAL FORD FOR THE PURCHASE OF TWO (2) 2017 FORD ESCAPE VEHICLES AND ASSOCIATED EQUIPMENT IN THE TOTAL AMOUNT OF \$57,982.00 IN ACCORDANCE WITH THE FLORIDA SHERIFFS ASSOCIATION CONTRACT NO. FSA16-VEL24.0, AND ESTABLISHING A TOTAL BUDGET OF \$57,982.00 IN THE 2017 EQUIPMENT REPLACEMENT PROGRAM.

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 a purchase order to Duval Ford in the amount of \$57,982.00 for the purchase of two (2) 2017 Ford Escape Vehicles and Associated Equipment in accordance with the Florida Sheriffs Association Contract No. FSA16-VEL24.0.

Section 2. The Town Manager, or his designee, is hereby authorized to take such further actions as may be necessary to effectuate this purchase of these vehicles and associated equipment, including any necessary change orders as recommended by the Director of Public Safety.

PASSED AND ADOPTED in regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 10th day of January, 2017.

Gail L. Coniglio, Mayor

Michael J. Pucillo, Town Council President

Richard M. Kleid, Town Council President Pro Tem

Bobbie Lindsay, Town Council Member

ATTEST:

Danielle H. Moore, Town Council Member

Susan A. Owens, MMC, Town Clerk

Margaret A. Zeidman, Town Council Member



DUVAL **State Employee** **Contract Pricing**

State Employees, as well as County and City Employees and their immediate families, can now get their new Ford car, truck or SUV at **COST** using State Employee Contract Pricing.

CALL: (800) 646-0584 or go to
www.duvalford.com

TOWN OF PALM BEACH

Prepared for:		Contract Holder	DATE:
TOWN OF PALM BEACH		Duval Ford Fleet Sales	12/8/16
JIMMY		Matt Forte	
JDUANE@TOWNOFPALMBEACH.COM		(Work) 904-388-2144	
		(Fax) 904-387-6816	
		(Cell) 904-505-9682	
		matt.forte@duvalfleet.com	
		1616 Cassat Ave. Jax, FL 32210	
PLEASE CONFIRM RECEIPT OF QUOTE VIA EMAIL			
<i>I appreciate your interest and the opportunity to quote. Prices are published by the Florida Sheriff's Association/ Florida Association of Counties & Florida Fire Chiefs' Association Automotive Contract #FSA16-VEL14.0 chassis / FSA16-VEL24.0. (www.flsheriffs.org) If you have any questions regarding this quote please call! Vehicle will be ordered white exterior unless specified on purchase order.</i>			
Labor	Code	Equipment	Price
0	SPEC 29	2017 FORD ESCAPE 4-DOOR UTILITY VEHICLES - 4X4 OR AWD U9G	\$ 20,831.00
0	XXX	XXX	NC
0	99D	1.5L ECOBOOST ENGINE WITH AUTO START-STOP TECHNOLOGY	STD
0	STD	POWER WINDOWS/ DOOR LOCKS	STD
0	STD	BACK UP CAMERA- FACTORY	STD
0			
0	STD	ALUM WHEELS	\$ -
0	85T	CARGO SHADE	\$ 134.00
7	WPLB	54" LIBERTY II LIGHTBAR ALL RED	\$ 2,563.00
0	HH2200	UPGRADE TO HH2200 HANDHELD CONTROLLER	\$ -
4	W-VERTEX	4 CORNER VERTEX CLEARS...SURFACE	\$ 296.00
0	DECALS	DECALS...CUSTOMER WILL SUPPLY PICS OF SCHEME	\$ 300.00
0			
0			
0	RR	EXTERIOR: RUBY RED	\$ 394.00
0	DB.66A	INTERIOR: CHARCOAL BLACK LEATHER SEAT UPGRADE...REQUIRES 201A MODEL UPGRADE	\$ 1,594.00
0		SE Technology Package BLIS (Blind Spot Information System) W/Cross -Traffic Alert, Headlamps - Halogen Projector with LED Sig Lighting (LED Signature Lighting non-configurable replaces the standard Configurable Daytime Running Lamps (DRL)), 9Speakers, One-Touch -Up/Down Front and Rear Window, Power Converter 110V Outlet (replaces the rear center console Powerpoint port), RevSensingSystem, RoofRackSideRails-Black, SYNC3-Enhanced Voice Recognition Command Entertainment System- 8" LCD Capacitive Touchscreen in Center Stack with Swipe Capability- Pinch-to-Zoom capability included when equipped w/available Voice Activated Touchscreen Navigation System- Applink- 911 Assist-Smart Charging USB ports-2, SYNC@ Connect. When this package is ordered with the SE Cold Weather Package (66W) or with the SE Leather Comfort Package (66A), the features on the sideview mirrors are Power/Heated Glass and BLIS@ (Blind Spot Information System) with Cross-Traffic Alert	\$ 1,394.00
0	U9G.201A		
0			
0			
0			
11	LABOR	Total labor hours per spec. Includes wire, loom, connectors, PDI and shop supplies:	\$135 \$ 1,485.00
	VENDOR COMMENTS	PLEASE CLEARLY NOTATE ON YOUR PURCHASE ORDER WHERE DUVAL FORD IS TO SHIP YOUR VEHICLE, HOW THE VEHICLE IS TO BE TITLED, AND WHERE THE INVOICE IS TO BE MAILED.	
UNIT COST			\$ 28,991.00
TOTAL QUANTITY 2			TOTAL PURCHASE \$ 57,982.00

TOWN OF PALM BEACH

Town Council Meeting on: January 10, 2017

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 03-2017 A Resolution of the Mayor and Town Council of the Town of Palm Beach, Palm Beach County, Florida, Supporting the State Legislature's Efforts to Amend Section 403.7033, Under House Bill 93 and Companion Senate Bill 162, Which Amendments Would Provide for Local Regulation and Enforcement of Plastic Bags Under the State's Proposed Guidelines; Alternatively, Should the Statute not be Amended, the Town Council Requests the Repeal of Section 403.7033, Florida Statutes, so that Local Governments are no Longer Preempted from Enacting Appropriate Legislation Relating to the Regulation of Plastic Bags.

Presenter

Jay Boodheshwar, Deputy Town Manager

ATTACHMENTS:

- ▣ **Memorandum dated January 3, 2017, from Jay Boodheshwar, Deputy Town Manager**
- ▣ **Resolution No. 03-2017**
- ▣ **Report Dated November 28, 2016, from Gray E. Foster**

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 10, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: Jay Boodheshwar, Deputy Town Manager

Re: Resolution Supporting Amendment of Section 403.7033 of the Florida State Statutes,
Providing for Local Authority to Regulate Single-Use Plastic Bags
Resolution No. 03-2017

Date: January 3, 2017

STAFF RECOMMENDATION

Staff recommends Town Council approve Resolution No. 03-2017, supporting the amendment of Section 403.7033 of the Florida State Statutes, providing for local authority to regulate single-use plastic bags, as recommended by the Ordinances, Rules and Standards Committee (ORS).

GENERAL INFORMATION

In the early Fall of 2016, staff presented a proposal (on behalf of ORS) to the Palm Beach Day Academy to research the effects of balloons and single-use plastic bags on the environment, specifically in coastal communities. Under the supervision and guidance of Ms. Sarah Kemeness of the Palm Beach Day Academy, 9th grade student Gray Foster took on the challenge.

Mr. Foster completed extensive research into both matters and presented his research findings and recommendations to the ORS Committee on December 8, 2016. His research sheds a light on the adverse environmental impact of plastics in our oceans, including the unnecessary fatalities caused to marine wildlife. He reported that 90% of the garbage picked up during beach clean-ups in Palm Beach are made of plastic.

Mr. Foster acknowledged that Section 403.7033 of the Florida Statutes prohibits local municipalities from regulating single use plastic bags, but strongly recommended the Town Council adopt a resolution supporting an amendment to the State Statutes to provide local authority to regulate. Several resolution samples were provided by Mr. Foster from other Florida municipalities, which were used to draft the attached resolution.

The ORS Committee agreed with Mr. Foster's recommendation to send a resolution to the State Legislature and also felt Council should take action by way of motion to encourage voluntary banning of single-use plastic bags in Palm Beach until such time the Town is authorized to enact local regulations pertaining to this issue.

TOWN ATTORNEY REVIEW

The Town Attorney prepared and approved Resolution No. 03-2017.

Attachments

cc: John C. Randolph, Town Attorney

RESOLUTION NO. 03-2017

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, SUPPORTING THE STATE LEGISLATURE'S EFFORTS TO AMEND SECTION 403.7033, UNDER HOUSE BILL 93 AND COMPANION SENATE BILL 162, WHICH AMENDMENTS WOULD PROVIDE FOR LOCAL REGULATION AND ENFORCEMENT OF PLASTIC BAGS UNDER THE STATE'S PROPOSED GUIDELINES; ALTERNATIVELY, SHOULD THE STATUTE NOT BE AMENDED, THE TOWN COUNCIL REQUESTS THE REPEAL OF SECTION 403.7033, FLORIDA STATUTES, SO THAT LOCAL GOVERNMENTS ARE NO LONGER PREEMPTED FROM ENACTING APPROPRIATE LEGISLATION RELATING TO THE REGULATION OF PLASTIC BAGS.

WHEREAS, the Town Council of the Town of Palm Beach is diligent in its efforts to preserve the beautiful environment that supports the tourism industry which is so vital to the economy of the Town of Palm Beach and the State of Florida; and

WHEREAS, plastic bags are detrimental because they do not fully degrade in our oceans or land environment and they introduce unsafe chemicals into our environment; and

WHEREAS, plastic bags create the potential for death of (land) and marine animals through entanglement and ingestion; and

WHEREAS, the expansive usage of single-use shopping bags and their typical disposal rates creates an impediment to the Town's waste reduction and recycling goals while creating unsightly litter; and

WHEREAS, single-use plastic bags are difficult to recycle and frequently contaminate material that is processed through the Town's curbside recycling and composting programs; and

WHEREAS, reusable bags are considered to be the best option to reduce waste and litter, protect wildlife and conserve resources; and

WHEREAS, Council acknowledges that some businesses have taken affirmative steps to accomplish this goal and recognizes their proactive efforts; and

WHEREAS, it is in the public interest for the Council to encourage and enable the location of a viable reusable bag manufacturing operation in the State of Florida; and

WHEREAS, it is in the public interest for the Florida Legislature to provide statewide deregulation of the proliferation of single-use shopping bags; and

WHEREAS, the Florida Legislature under "The Energy, Climate Change, and Economic Security Act of 2008", enacted House Bill 7135, creating Section 403.7033, Florida Statutes; and

WHEREAS, Section 403.7033 requires the Florida Department of Environmental Protection (DEP) to perform an analysis and submit a report to the Legislature by February 1, 2010 regarding the necessity and efficacy of both statewide and local regulation of bags used by consumers to carry products from retail establishments; and

WHEREAS, the statute also provides that until such time that the Legislature adopts the recommendations of DEP, no local or state government may enact any regulation or tax on the use of such retail bags; and

WHEREAS, the DEP analysis determined a need for new or different regulations of bags used by customers to carry products from retail establishments and recommend the implementation of new standards requiring the prohibition of plastic carryout bags encourages the use of reusable bags to the benefit of the State's environment; and

WHEREAS, this year House Bill 93 was proposed in the state legislature, along with companion Senate Bill 162, which bills propose: an amendment to Section 403.7033; which would provide legislative findings; deleting obsolete provisions; create definitions; create statewide standards for reusable bags and recyclable paper bags for stores located within a county or municipality that adopts ordinances pursuant to the statute; would require affected stores to charge customers a fee for each recyclable paper bag provided; would prohibit affected stores from providing plastic carryout bags or other types of bags; would provide for the allocation of fees collected, reporting requirements for affected stores; and authorizing local governments to impose a penalty and create ordinances to regulate the use of carryout bags to adopt ordinances pursuant to the statute; and

WHEREAS, through the proposed bills, the Legislature has indicated a legislative belief that it is necessary and appropriate to adopt uniform statewide standards prohibiting the use of plastic carryout bags, which would authorize local governments to adopt these regulations by local ordinance; and

WHEREAS, the bill is being amended and has not been enacted; and

WHEREAS, the Town Council supports the efforts to amend Section 403.7033, under House Bill 93 and companion Senate Bill 162 and supports the enactment of the bills, and, alternatively, requests that Section 403.7033, Florida Statutes, be repealed, so that local government can enact appropriate legislation relating to the regulation of plastic bags.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA:

Section 1. The Mayor and Town Council support the State Legislature's efforts to amend Section 403.7033, under House Bill 93 and companion Senate Bill 162, which amendments would provide for local regulation and enforcement of plastic bags under the State's proposed guidelines; and, alternatively, should the legislation not be enacted, the Town Council requests that the State Legislature repeal Section 403.7033, Florida Statutes, so that local governments are no longer preempted from enacting appropriate legislation relating to the regulation of plastic bags.

Section 2. This Resolution shall become effective immediately upon passage.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 10th day of January, 2017.

Gail L. Coniglio, Mayor

Michael J. Pucillo, Town Council President

Richard M. Kleid, Council President Pro Tem

Bobbie Lindsay, Town Council Member

ATTEST:

Dannielle H. Moore, Town Council Member

Susan A. Owens, MMC, Town Clerk

Margaret A. Zeidman, Town Council Member

p:\docs\13156\00008\doc\1r59461.docx

Gray E. Foster

162 Dolphin Road
Palm Beach, Florida 33480
561-758-1571
grayefoster@gmail.com

November 28, 2016

Mr. Jay Boodheshwar
Deputy Town Manager, Town of Palm Beach
360 South County Road
Palm Beach, Florida 33480

Dear Mr. Boodheshwar,

Enclosed you will find my written report in response to the Research Project Proposal issued by the Town of Palm Beach Ordinances, Rules and Standards Committee. As you will see, I am passionate about the issue and sincerely hope to convince the town to move forward it.

As I began to work on this, I found that the issues are much more complicated than I originally thought, so I needed help putting together the final paper both with background research and with organizing my ideas into a readable paper for the committee. I am very grateful to my Aunt, India Foster and to the Surfrider Foundation for help in these areas and to my parents for help in proof-reading and digital formatting. I would also like to thank Ms. Sarah Kemeness for trusting me with this project and supporting PBDA's efforts on the environment.

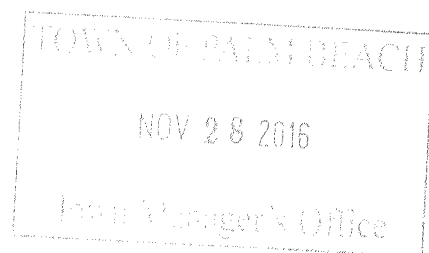
I look forward to presenting the findings and recommendations from this paper to the Committee on December 8 at 10:00 A.M. On behalf of Palm Beach Day Academy, thank you for this opportunity and for your consideration of this important issue.

Sincerely yours,

Gray Foster, 9th Grade
Palm Beach Day Academy

Enclosures: Written report
USB Device

cc: Sarah Kemeness
Mayor Gail Coniglio



Plastic Bags and Outdoor-Use of Balloons and Their Effect on The Town of Palm Beach



By: Gray E. Foster

Table of Contents

Introduction.....	2
Larger Scale Environmental Damage.....	2
Effects on Palm Beach.....	3
Regulating Plastic.....	3
What Can Palm Beach Do About Plastic Bags.....	5
What Can Palm Beach Do About Balloons.....	5
Conclusion.....	6
Requested actions.....	7
Supporting Documents: Appendices A through K	

Palm Beach is probably the most famous coastal town in Florida, known for its beautiful homes and pristine beaches, but like every coastal community our incredible lifestyle comes with a responsibility to our ocean. One of the greatest threats to our oceans and its creatures is plastic bags and balloons. It is estimated that Americans use around 100 billion plastic bags per year. Efforts have been made to recycle these bags over the years, but studies show that less than 12% are recycled.¹ The rest are clogging our landfills and storm sewers, littering our beaches, floating in our oceans, choking and poisoning our marine life. Palm Beach has a chance to stand up as a coastal community against the degradation of our beaches and attempt to reduce the plastic bag and balloon problem here on our island.

Many would agree that the beautiful Atlantic Ocean right at our doorstep is what makes Palm Beach so beautiful and unique. It is no longer a secret that plastic is destroying our oceans around the world. Enormous garbage patches have been found in the Oceans. There is a plastic garbage gyre in the Pacific Ocean that is twice as big as Texas and now similar large gyres are growing in the Atlantic and Indian Oceans.² Marine creatures from sea turtles to sperm whales have been found with bellies full of plastic. It can no longer be denied that plastic in our ocean is a

¹ Earth Policy Institute, See Appendix A

² K. Lavender Law, S. Morét-Ferguson, N. A. Maximenko, G. Proskurowski, E. E. Peacock, J. Hafner, and C. M. Reddy, Plastic accumulation in the North Atlantic subtropical gyre. *Science* 329, 1185-1188 (2010). doi:10.1126/science.1192321.

huge problem. It is the students of today who will suffer the greatest effects from this and who care the most and are willing to do the most. Beach clean-ups in Palm Beach are well attended by PBDA students because of how much we care about this issue.

On an average day of beach clean-up, plastic bags and balloons are only a small part of the litter we accumulate, but about 90% of what we pick up is made of plastic. We also pick up a small amount of fishing tackle. Of the items that most damage marine life, fishing tackle, balloons, and plastic bags are the worst and much of the bag damage is still unseen as plastic bags degrade into tiny particles that are ingested by the tiniest organisms and filter up the food chain.³ The chemicals from plastic bags are considered toxic and they are entering the food supply through the seafood we eat.

After one use, retail plastic bags usually become: unsightly litter, a nuisance to our town crews, dangerous to our marine life and toxic to our environment and Palm Beach needs to take a stand on the issue. The release of balloons is simply purposeful littering and should not be tolerated either.

There are several ways to regulate plastic bags and outdoor-use balloons, usually through city ordinances in the United States. Some states have even enacted regulations to address this scourge and, not surprisingly, most of those are coastal

³ NOAA Microplastics Fact Sheet- Appendix B

regions.⁴ Unfortunately, there is a plastic bag lobby effort and along with the petroleum industry lobby, they have convinced some states to enact a ban on banning plastic bags. In 2008 Florida joined Arizona, Missouri and Idaho in enacting legislation that effectively bars local government from passing any regulations or ordinances regarding plastic bags. Please don't stop reading here, we *can* take action.

The 2008 Florida statute, FL 403.7033, asked for a report and input from state and local agencies and said until they adopt the recommendations in the report, no rules regarding plastic bags can be enacted by any local governments.⁵ In 2010 an extensive report was submitted to the legislature by the Florida Department of Environmental Protection outlining the damage being done and making a strong case for regulations on plastic bags.⁶ This report is very thorough and details the pros and cons of different regulations and what has been done in other states. Since the DEP submitted its report, several attempts have been made by Florida lawmakers to deal with the issue.⁷ All bills addressing plastic bags have died in committees because there are some special interests fighting to protect the profits on plastic bags.⁸ The slick talking points of the pro-plastic bag lobby are not

⁴ National Conference of State Legislatures Report- Appendix C

⁵ Florida Statute- Appendix D

⁶ Retail Bags Report For The Legislature Pages 1-21 -Appendix E, *Please note the entire report consists of 57 pages.* To see the document in its entirety go to: http://www.dep.state.fl.us/waste/quick_topics/publications/shw/recycling/retailbags/Retail-Bag-Report_01Feb10.pdf

⁷ 2015 Proposed legislation to allow small municipalities to regulate plastic bags, This bill died in committee in March 2016- Appendix F

⁸ TCPalm Article- Appendix G

convincing when we have a front-row seat to the damage they do here in our own town. The young people of Palm Beach are counting on adults to do anything they can to preserve the beauty and quality of life here in our hometown and to follow through with the responsibilities we are reminded of each time we admire the Atlantic Ocean that makes our lives here so unique.

So what can we do? We can follow the example of other towns and counties who acknowledge the detrimental effects plastic bags are having on their way of life. In the past few years there has been a push by small coastal communities tired of the trash, dead animals, and clogged storm sewers to take a stand. The most effective argument from the pro-bag lobbying effort has been that banning the bags will be expensive for stores and consumers and could cause job losses at Florida plastic bag manufacturing sites. In a small, affluent beach town like Palm Beach, our own interests far outweigh those arguments and like our neighboring towns, we must at least try to solve this problem. A resolution by the Town of Palm Beach sent to the Florida Legislature is the most effective way we can address this issue for the time being. More than twenty-four of our neighboring coastal towns have enacted resolutions in support of being able to regulate single-use plastic bags and Palm Beach should join them as soon as possible.⁹ Some of these resolutions are general support for the repeal of FL 403.7033 and some support specific legislation that has been introduced.¹⁰

⁹ A partial list is included at the end of Appendix H

¹⁰ Resolutions: Miami-Dade County Commissioners, City of Miami Beach, Monroe County, Village of Pinecrest- Appendix H

With regard to the outdoor use or release of balloons, Florida has a statute addressing the release of balloons that effectively prohibits the act of releasing them into the atmosphere. FL 379.233 provides for a \$250 fine for violation of this statute and also allows for a way to stop planned balloon releases in court.¹¹ The Town of Palm Beach can go a step further on balloons by enacting an ordinance on the issue which would provide better clarity for our citizens and our law enforcement personnel. Several of our neighboring communities have done so and a sample ordinance is provided.¹²

In addition to taking a stand with the Florida legislature, we can work directly with local businesses to effect change in our town. The time it takes for Palm Beach to be able to regulate plastic bags could leave thousands of bags in our precious environment so we would like to continue the PBDA effort to educate our community about single-use plastic bags and outdoor-use balloons. We want to establish achievable goals for the future, seeking cleaner, safer beaches and a brighter future for our oceans.

Palm Beach *can* take a stand against the plastic bags and balloons clogging our storm sewers, stuck in trees, floating in the waterways, killing our marine life, littering our beaches and poisoning our ocean. There is a movement across the world, across the nation and especially in oceanside communities that recognizes the horrible damage plastics are doing to our ocean. PBDA students and many

¹¹ FL Statute 379.233- Appendix J

¹² City of South Miami “Balloon Regulations”- Appendix K

adults pick up mounds of garbage from our beaches to keep them beautiful, but plastic bags are doing damage beyond our efforts as they break apart to microscopic sizes and become dangerous to us all. Please help us in our commitment to our town and our world as we continue in this vital effort.

We respectfully ask the Members of the Town Council Ordinances, Rules and Standards Committee to adopt a *resolution* supporting rules against single use plastic bags and an *ordinance* regarding balloon releases.

Respectfully Submitted,

Gray E. Foster
9th Grade, Palm Beach Day Academy

162 Dolphin Road
Palm Beach, FL 33480

241 Seaview Avenue
Palm Beach, FL 33480

Contributor:
India R. Foster
Alumna, Palm Beach Day School
64 Via Mizner
Palm Beach, FL 33480

Appendix A

Plastic Bags Fact Sheet October 16, 2014

Worldwide, a trillion single-use plastic bags are used each year, nearly 2 million each minute.

The amount of energy required to make 12 plastic shopping bags could drive a car for a mile.

City, state, and national governments around the world are trying to limit plastic bag litter and waste with bans and fees.

The oldest existing plastic bag tax is in Denmark, passed in 1993. Danes use very few light-weight single-use plastic bags: about 4 per person each year.

At least 16 African countries have announced bans on certain types of plastic bags, to varying levels of effectiveness. Before a ban on thin bags—which tear readily and get caught by the wind—went into effect in 2003, plastic bags were christened South Africa’s “national flower” because of their prevalence in bushes and trees. Thicker bags are taxed.



Many European countries tax plastic bags or ban free distribution. The EU Parliament is discussing measures that could require member states to cut plastic bag use by 80 percent by 2019. A memo on the proposal noted that “plastic bags have been found in stomachs of several endangered marine species,” including various turtles and porpoises, and 94 percent of North Sea birds.

The provinces of Ontario and Quebec have each halved their plastic bag use through a variety of measures, including store incentives for using reusable bags and retailer-imposed fees.

Livestock choking on plastic bags—from camels in the United Arab Emirates to sheep in Mauritania and cattle in India and Texas—have led communities to consider regulation.

Currently 100 billion plastic bags pass through the hands of U.S. consumers every year—almost one bag per person each day. Laid end-to-end, they could circle the equator 1,330 times.

Over 150 U.S. cities and counties ban or require fees for plastic bags. California passed the first statewide ban in 2014, though Hawaii had a de facto ban through county ordinances. Over 49 million Americans live in communities that have passed plastic bag bans or fees.

U.S. cities with bag bans include San Francisco (as of 2007), Portland (2011), Seattle (2012), Austin (2013), Los Angeles (2014), Dallas (to begin in 2015), and Chicago (2015).

The plastics industry has spent millions of dollars to challenge plastic bag ordinances.

Washington, D.C., was the first U.S. city to require food and alcohol retailers to charge customers 5¢ for each plastic or paper bag. Proceeds are shared between stores and environmental clean-ups.

A [timeline](#) tracing the history of the plastic bag and examples of plastic bag ordinances from the [United States](#) and [around the world](#) are at www.earth-policy.org.

Appendix B

Microplastic Marine Debris



Microplastics from Chesapeake Bay Surface Water Samples (Photo Credit: Will Parson Chesapeake Bay Program)

What are microplastics?

Particles in the size range 1 nanometer to < 5 mm.

Types of Microplastics

Primary microplastics are manufactured as microbeads, capsules, fibers or pellets. Examples include microbeads used in cosmetics and personal care products, industrial scrubbers used for abrasive blast cleaning, microfibers used in textiles, and virgin resin pellets used in plastic manufacturing processes.

Secondary microplastics are the result of larger pieces of plastic breaking down into smaller pieces. This occurs when plastic debris is exposed to sunlight and the plastic begins to weather and fragment.

Impacts of Microplastics

Microplastics have been found in the stomachs of many marine organisms from plankton species to whales. Chemical additives can leach out of microplastics into the ocean; conversely, contaminants from the water may adhere to microplastics. There is ongoing research to determine whether these contaminants may transfer through the food chain.

NOAA Marine Debris Program Involvement

NOAA's Marine Debris Program (MDP) continues to support efforts to understand the impacts associated with microplastic debris. Our work includes gathering experts to assess the state of the science; funding research projects to determine distribution, abundance, and impacts of microplastic debris; and raising awareness through public education programs focusing on microplastic issues.

Workshops & Advisory Roles

NOAA's MDP and the University of Washington, Tacoma hosted two International Microplastic Workshops. Researchers met to standardize microplastic terminology, and identify data gaps and research needs that are currently being addressed.

- 2008 International Microplastic Workshop Proceedings
- 2010 International Microplastic Workshop Proceedings

NOAA sponsored and participated in the GESAMP 40 Working Group (Joint Group of Experts on the Scientific Aspects of Marine Environmental Pollution) which published the first global assessment regarding microplastics in the marine environment.

- GESAMP 90 Reports and Studies

Education

NOAA MDP has sponsored partners to create education and outreach materials that address the issue of micro- and macro- plastic debris. One such project is the *Microplastics Curriculum* from Project SORT (University of Georgia).



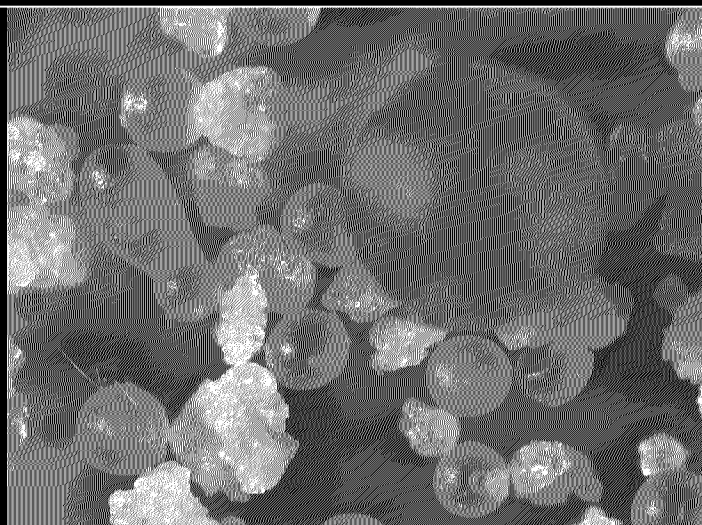
Microplastics Research Projects (funded by NOAA MDP)

Microplastic Consumption and Contamination

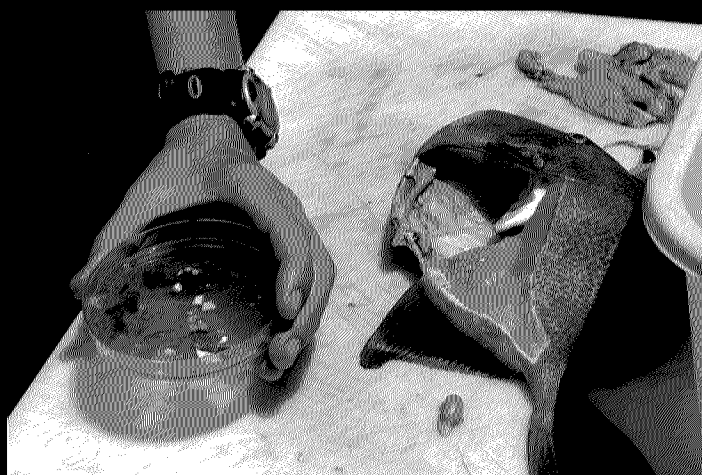
- Scientists at the Virginia Institute of Marine Science (VIMS) are investigating how environmental factors (e.g. temperature) affect chemical adherence to- and leaching from- microplastic debris.
- Researchers at the University of California, Davis are investigating whether microplastic debris is toxic to marine organisms and if toxic impacts can transfer up the food chain.
- Scientists at the Sea Education Association (SEA) and Helix Science, LLC are conducting experiments that address fundamental questions about the ability of zooplankton to ingest microplastic particles.
- Researchers from the University of Southern Mississippi are analyzing the gut contents of juvenile fish that inhabit floating sargassum mats in the Gulf of Mexico to determine if the fish are actively consuming microplastic debris.

Microplastic Distribution and Detection

- The National Park Service and Clemson University are collecting and analyzing beach sediments to assess the abundance and distribution of microplastics in U.S. National Parks.
- University of Washington researchers are measuring microplastic levels from archived plankton samples taken from the Gulf of Alaska to compare microplastic abundance at several locations across the Gulf over time.
- Researchers from the University of Washington, Tacoma created a laboratory manual describing step-by-step instructions for measuring microplastics in environmental samples.



Microbeads (Photo Credit: University of Washington, Tacoma)



Microplastics found in triggerfish stomach (Photo Credit: David M. Lawrence / Sea Education Association)



Educators Sorting Marine Debris in Georgia (Photo Credit: NOAA MDP)



Marine Debris



NOAA Marine Debris Program | Office of Response and Restoration | NOAA National Ocean Service

What We Know About: Plastic Marine Debris

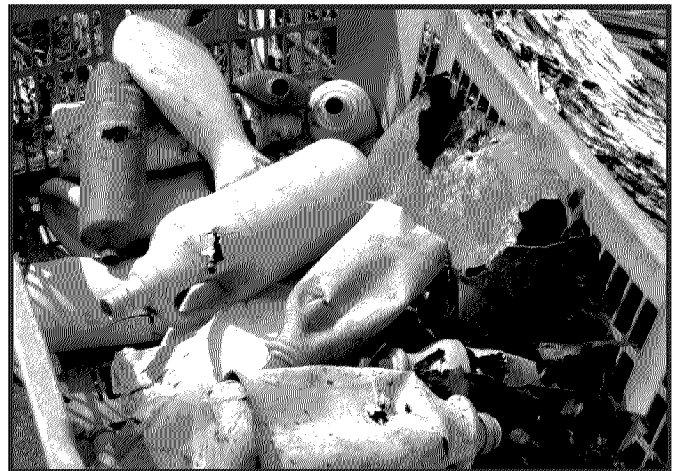
<http://marinedebris.noaa.gov/info/plastic.html>

Introduction

One of the main types of marine debris that you hear about today is plastic marine debris. In many places, it is the main type of debris that you will see as you walk along a beach, though perhaps not underwater. As common as they are on our beaches and in our homes, how much do you really know about plastics?

What is plastic marine debris?

The word “plastic” is used to describe a collection of artificial or manmade chemical compounds that come in about as many shapes, sizes, and colors as you can imagine! For example, foam carry-out containers (made of polystyrene) and bottle caps (made of polypropylene) are items that would be considered plastic marine debris if found in our oceans or waterways.



Plastic bottle, such as those shown above, are some of the more common types of debris found on beaches in Hawaii.



One source of microplastics is through the fragmentation of larger pieces. Photo courtesy of NOAA Restoration Center.

Some common types of plastic:

Acronym	Full name	Common Example
PET (PETE)	Polyethylene terephthalate	soda bottles
PES	Polyester (yes, it's actually a plastic!)	polyester clothing
PE	Polyethylene	plastic bags
HDPE	High-density polyethylene	detergent bottles
PVC	Polyvinyl chloride	plumbing pipes
PP	Polypropylene	drinking straws
PA	Polyamide (aka nylon)	toothbrushes
PS	Polystyrene	take-out food containers

Why is plastic marine debris so common?

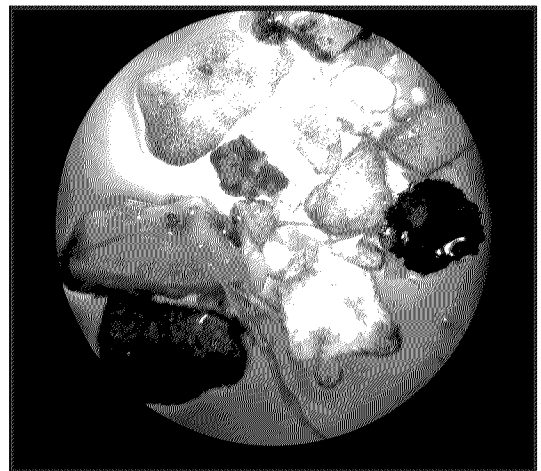
Plastics are used in many aspects of daily life, are a big part of our waste stream, and can last a long time. Many

plastics are colorful and will float in water, which makes plastic debris a very visible part of the marine debris problem. However, an accurate estimate does not yet exist for how much debris is composed of plastic materials.

Do plastics “go away”?

Plastics will **degrade** into small pieces until you can't see them anymore (so small you'd need a microscope or better!). Because the ocean is a cold, dark place, this process happens slower in water than on land. But, do plastics fully “go away?” Full degradation into carbon dioxide, water, and inorganic molecules is called **mineralization**. Most commonly used plastics *do not* mineralize (or go away) in the ocean and instead break down into smaller and smaller pieces. We call these pieces “microplastics” if they are less than 5mm long.

Bio-based and truly biodegradable plastics break down in a compost pile or landfill, but are generally not designed to degrade as quickly in the ocean.



Microplastics skimmed from the North Pacific Ocean.
Photo courtesy of J. Foley, C-MORE.

Can plastic marine debris harm fish?

Plastic has the potential to harm fish and other wildlife in two main ways.

Direct Impacts - Studies have shown that fish and other marine life do eat plastic. Plastics could cause irritation or damage to the digestive system. If plastics are kept in the gut instead of passing through, the fish could feel full (of plastic not food) and this could lead to malnutrition or starvation.

Indirect Impacts - Plastic debris accumulates pollutants such as PCBs (polychlorinated biphenyls) up to 100,000 to 1,000,000 times the levels found in seawater. PCBs, which were mainly used as coolant fluids, were banned in the U.S. in 1979 and internationally in 2001. It is still unclear whether these pollutants can seep from plastic debris into the organisms that happen to eat the debris and very difficult to determine the exact source of these pollutants as they can come from sources other than plastic debris. More research is needed to help better understand these areas.

What can we do?

- Get involved! Participate in local cleanups in your area.
- Remember that the land and sea, no matter where you are, are connected.
- Reduce the amount of waste you produce.
- Reuse items whenever possible. Choose reusable items over disposable ones.
- Recycle as much as possible. Bottles, cans, cell phones, ink cartridges, and many other items can be recycled.

For more information visit

www.MarineDebris.noaa.gov/info/plastic.html

Appendix C



State Plastic and Paper Bag Legislation

6/29/2016

Fees, Taxes and Bans | Recycling and Reuse

States continue to consider strategies to reduce the use of carryout plastic bags from grocery stores and other retail outlets.



Regulating bags can mitigate harmful impacts to oceans, rivers, lakes, forests and the wildlife that inhabit them. Reducing bag use can also relieve pressure on landfills and waste management.

While some states are focusing on implementing effective recycling programs, others are attempting to impose bans or fees to discourage the use of plastic bags altogether.

Bans and Fees

In August 2014, California became the first state legislature to enact legislation imposing a statewide ban on single-use plastic bags at large retail stores. The bill also requires a 10 cent minimum charge for recycle paper bags, reusable plastic bags, and compostable bags at certain locations. The ban was supposed to take effect on July 1, 2015, but a financed ballot measure was used in an attempt to repeal it. A referendum to officially repeal the statewide ban has now been added to the November 2016 ballot. A detailed summary of the law can be found below.

Hawaii has implemented a de facto statewide ban as all of its most populous counties prohibit non-biodegradable plastic bags at checkout, as well as paper bags containing less than 40 percent recycled material. Bans in Kauai, Maui and Hawa counties took effect between 2011 and 2013, with Honolulu becoming the last major county to approve the ban in 2015.

In 2009, the District of Columbia enacted a law to ban the distribution of disposable, non-recyclable plastic carry-out bags and set a fee of five cents for distribution of all other disposable bags.

NOTABLE CITIES/COUNTIES WITH PLASTIC BAG BANS AND FEES

Cities with Plastic Bag Bans

- Austin
- Cambridge, Mass.
- Chicago
- Los Angeles
- San Francisco
- Seattle

Cities/Counties with Plastic Bag Fees

- Boulder, Colo.
- Brownsville, Texas
- Montgomery County, Md.
- New York, N.Y.
- Portland, Maine
- Washington D.C.

2015-2016 Legislative Summary

Between 2015 and 2016 at least 77 bills have been proposed by 23 states regarding the regulation of plastic bags in retail settings. The vast majority of states, 20, introduced 71 of these bills in an effort to decrease the use of disposable carryout bags by imposing a ban, fee or improving recycling efforts. However, none of these bills have passed.

Only three states—Arizona, Idaho, and Missouri—have successfully enacted bills, all of which are considered to be preemption bills used to overrule local laws or ordinances. In this case the state legislatures are preventing localities from regulating the sale or use of plastic bags, including the imposition of any fees or taxes (see tables below).

States with Enacted Plastic Bag Legislation



Recycling Programs and Requirements

States have a long history of pursuing legislation related to labeling, recycling, and reusing plastic bags. In 1991, Maine became the first state to enact legislation requiring recycling efforts at retail stores. The statute prevents retailers from supplying plastic bags unless they provide a convenient storefront receptacle to ensure used bags are collected and recycled. Since then at least four other states—California, Delaware, New York and Rhode Island— and the District of Columbia have followed suit.

In 2006 and 2009 respectively, California and Delaware passed legislation that requires retail stores to adopt at-store recycling programs. Their similar legislation encourages the use of reusable bags, requires stores to provide an opportunity for their customers to return plastic bags and requires that plastic carry-out bags display a recycling message.

Illinois is the only state that adopted legislation regarding recycling programs in 2016. The house passed a resolution that established "Recycle Thin Film Friday" as an effort to reclaim used thin-film plastic bags and to encourage consumers to use reusable bags.

ENACTED PLASTIC BAG STATE LEGISLATION

State	Citation	Status	Summary
Arizona	2015 Ariz. Laws, Chap. 271 (2015 SB 1241)	*Enacted	Prevents a city, town or county from regulating the sale, use or disposition of plastic bags and other “auxiliary containers” by an owner, operator or tenant of a business commercial building or multifamily housing property. The law does not prevent a city, town or county from continuing a voluntary recycling and waste reduction program.
California	2014 SB 270	Put to Referendum	As of July 1, 2015 certain large stores are prohibited from providing a single-use plastic carryout bag to a customer, unless the retailer makes that bag available for \$0.10 and certain conditions are met.

California	2011 CA S 567	Enacted	Prohibits the sale of plastic products labeled as compostable, home compostable, or marine degradable unless it meets standard specifications. Provides for a civil penalty for a violation.
California	Cal. [Public Resources] Code § 42357.5 (2010 SB 228)	Enacted	Requires manufacturers of compostable plastic bags to ensure that the bag is readily and easily identifiable from other bags. Prohibits a compostable plastic bag sold in the state from displaying a chasing arrow resin identification code or recycling symbol in any form.
California	2006 AB 2449	Enacted	Retail stores must adopt an at-store recycling program. Plastic bags used at retailers must have clearly printed "Please Return to a Participating Store for Recycling" on the bag.
Delaware	2009 HB 15; Amended by 2014 HB 198	Enacted	Encourages the use of reusable bags by consumers and retailers. Requires a store to establish an at-store recycling program that provides an opportunity for customers of the store to return plastic bags and requires all plastic carryout bags to display a recycling message.
District of Columbia	2010 B 150	Enacted	Protects the aquatic and environmental assets of the District of Columbia, bans the use of disposable non-recyclable plastic carryout bags, establishes a fee on all other disposable carryout bags provided by certain retail stores, and establishes the recurring Anacostia River Cleanup and Protection Fund.
Idaho*	2016 HB 372	*Enacted	States that any regulation regarding the use, disposition or sale of plastic bags or other "auxiliary containers" shall be imposed only by a statute enacted by the legislature.
Illinois	2016 HR 1139	Adopted	Establishes "Recycle Thin Film Friday" in the State of Illinois as an effort to reclaim used thin-film plastic bags and to encourage consumers to use reusable bags.
Maine	2010 SB 131	Enacted	Convenes a work group, through a partnership with state agencies and other appropriate entities, to work towards a viable solution to the checkout bag issue to achieve environmental benefits, maintain financial viability for manufacturers and retailers and avoid cost impacts, provides for a report to the legislature.
Maine	1991 LD 1166	Enacted	Retailers may only provide customers with plastic bags if there is a receptacle to collect used plastic bags within 20 feet of the entrance and all plastic bags collected are then recycled.
Missouri	2015 HB 722	*Enacted	Provides all merchants doing business in the state with the option to provide either paper or plastic bags. Prevents localities from imposing a ban, fee, or tax upon the use of either paper or plastic bags.
New York	2008 AB 11725	Enacted	Plastic Bag Reduction, Reuse and Recycling Act; retailers of stores are to establish in-store recycling programs that provide an opportunity for the customer to return

clean plastic bags to be recycled. The plastic carryout bags provided by the store must have printed on them "Please Return to a Participating Store for Recycling."

North Carolina	2010 SB 1018	Enacted	Reduces plastic and non-recycled paper bag use on North Carolina's Outer Banks. A retailer subject to certain provisions shall display a sign in a location viewable by customers saying "[county name] County discourages the use of single-use plastic and paper bags to protect our environment from excess litter and greenhouse gases. We would appreciate our customers using reusable bags, but if you are not able to, a 100% recycled paper bag will be furnished for your use."
Rhode Island	2008 SB 2565	Enacted	This legislation promotes the use of paper bags by retailers. Retail establishments must offer the use of a paper bags to the consumer. Every retail establishment that provides customers with plastic bags must provide conveniently located receptacle where customers can return their clean and dry plastic bags to be recycled. Failure to comply with these laws is punishable with fines up to \$500.

*(Pre-emption bills denoted with *)

2015-2016 PENDING STATE LEGISLATION SUMMARIES

State	Bill Number	Status	Summary
Delaware	HB 202	Pending – Carryover	Requires stores to charge five cents for every single-use carryout bag that is provided to customers. Establishes reporting requirements to track fees that are charged and distribution of bags. Expands existing at-store recycling program.
Hawaii	HB 1507	Pending – Carryover	Convenes a working group to study methods of reducing use of single-use plastic bags and non-recyclable paper bags. Though all of Hawaii's counties have enacted bag bans, differences exist between them.
Illinois	SB 2224	Pending	Creates the Plastic Bag and Film Recycling Act. Requires manufacturers of plastic carryout bags to register with the Illinois Environmental Protection Agency and pay to the Agency an initial registration fee and annual registration renewal fee.
Illinois	HB 4202	Pending – Carryover	Creates the Plastic Bag and Film Recycling Act. Requires manufacturers of plastic carryout bags to register with the Illinois Environmental Protection Agency and pay to the Agency an initial registration fee and annual registration renewal fee. (similar legislation to IL SB 2224)
Massachusetts	HB 4168	Pending	Beginning Aug. 1, 2018 stores may no longer provide single-use carryout bags to customers at point of sale. Reusable bags, recycled paper bags and compostable plastic bags may be sold for a minimum of 10 cents each.
Massachusetts	HB 739	Pending – Carryover	Prohibits retail stores from distributing plastic carryout bags at the point of sale. Retailers who provide carryout bags must use recycled paper bags.

Massachusetts	HB 1501	Pending – Study Order	Requires every store to pay to the Commissioner of Revenue an excise of two cents per plastic bag provided to customers during the tax year—50 percent returned to store; 50 percent retained by the Commonwealth.
Massachusetts	SB 434	Pending – Carryover	Requires the Department of Environmental Protection to promulgate regulations to prohibit the use of plastic carryout bags by 2019.
Massachusetts	SB 2286	Pending	Prohibits a vendor at a farmers market from providing a single-use carryout bag to a customer. Makes exceptions for bags without handles provided to protect items from damage, contamination or to contain an unwrapped food item.
Massachusetts	SB 2305	Pending	Refers to the “Plastic Bag Reduction Act”, which states that no store shall provide a single-use carryout bag to a customer at the point of sale.
New Jersey	AB 2396	Pending	Provides for the decrease and eventual ban on use of non-compostable plastic grocery bags.
New Jersey	AB 3671 / SB 2349	Pending	Beginning June 1, 2017, store operators must charge a five-cent fee for each single-use carryout bag provided to the customer. Exemptions: customers 65 years of age or older and individuals enrolled in SNAP, WIC or the Work First New Jersey program. Dedicates revenue from the fee to the Health Schools and Community Lead Abatement Fund.
New York	AB 1991 / SB 703	Pending – Carryover	Creates the “Pennies for Park” program to provide funds for capital expenditures at state parks and historic sites. Imposes a one cent fee on single-use plastic carryout bags.
New York	AB 3636 / SB 4536	Pending – Carryover	Prohibits grocery stores from providing plastic carryout bags requiring them to provide recyclable paper bags instead at no charge.
New York	SB 3098	Pending – Carryover	Requires stores to charge five cents for each plastic bag provided to customers.
New York	SB 3329	Pending – Carryover	Increases number of stores subject to the Plastic Bag Reduction, Reuse and Recycling Act.
New York	AB 5954	Pending – Carryover	Requires greater number of stores in New York City to provide a recycling bin for plastic bags. Grants co-enforcement authority to the city over certain provisions of the law.
New York	SB 7336 / AB 9904	*Pending	Prohibits the imposition and/or collection of any tax, fee or local charge on carry out merchandise bags.

New York	SB 7085	Pending	Improves access to plastic bag collection bins by moving the bin to the entrance of the store. Requires a sign be placed above the bin to clarify that many other types of plastic bags can be recycled at these locations and that the bin must be emptied regularly. (similar to AB 10368)
New York	AB 10368	Pending	Relates to certain recycling program requirements; requires regular emptying of the bins; requires that information already collected by retailers regarding recycled plastic is transmitted to the Department of Environmental Conservation; requires stores to maintain records of recycling of plastic bags and make such records available.
New York	AB 8479	Pending	Declares that there shall be a tax of five cents upon plastic and paper shopping bags used to transport every sale of tangible personal property by consumers.
Pennsylvania	SB 540 / HB 1431	Pending – Carryover	Imposes a two-cent fee on each plastic bag supplied by retail establishment. A portion of the collected fees will be used for the improvement of recycling practices education and compliance.
Pennsylvania	HB 1280	*Pending – Carryover	Prohibits the imposition of a ban, fee, or tax on the provisions of plastic bags at the point of sale.
Pennsylvania	HB 1281	Pending – Carryover	Establishes the Plastic Bag Recycling Advisory Board. Provides for a study and report.
Rhode Island	SB 2527	Pending	Prohibits retail sales establishments from making available plastic checkout bags, or plastic water bottles or expanded polystyrene disposable food containers at the point of sale.

NCSL Member Toolbox

Members Resources

Get Involved With NCSL
Jobs Clearinghouse
Legislative Careers
NCSL Staff Directories
Staff Directories
StateConnect Directory

Policy & Research Resources

Bill Information Service
Legislative Websites
NCSL Bookstore
State Legislatures Magazine

Accessibility Support

Tel: 1-800-659-2656 or 711
Accessibility Support
Accessibility Policy

Meeting Resources

Calendar
Online Registration

Press Room

Media Contact
NCSL in the News
Press Releases

Denver

7700 East First Place
Denver, CO 80230
Tel: 303-364-7700 | Fax: 303-364-7800

Washington

444 North Capitol Street, N.W., Suite 515
Washington, D.C. 20001
Tel: 202-624-5400 | Fax: 202-737-1069

Appendix D

Select Year:

The 2016 Florida Statutes

[Title XXIX](#)

PUBLIC HEALTH

[Chapter 403](#)

ENVIRONMENTAL CONTROL

[View Entire Chapter](#)

403.7033 Departmental analysis of particular recyclable materials.—The Legislature finds that prudent regulation of recyclable materials is crucial to the ongoing welfare of Florida’s ecology and economy. As such, the Department of Environmental Protection shall undertake an analysis of the need for new or different regulation of auxiliary containers, wrappings, or disposable plastic bags used by consumers to carry products from retail establishments. The analysis shall include input from state and local government agencies, stakeholders, private businesses, and citizens, and shall evaluate the efficacy and necessity of both statewide and local regulation of these materials. To ensure consistent and effective implementation, the department shall submit a report with conclusions and recommendations to the Legislature no later than February 1, 2010. Until such time that the Legislature adopts the recommendations of the department, no local government, local governmental agency, or state government agency may enact any rule, regulation, or ordinance regarding use, disposition, sale, prohibition, restriction, or tax of such auxiliary containers, wrappings, or disposable plastic bags.

History.—s. 96, ch. 2008-227.

Appendix E

Retail Bags Report
For the Legislature

Florida Department of Environmental Protection

February 1, 2010

2600 Blair Stone Road MS 4570
Tallahassee, Florida 32399-2400
www.dep.state.fl.us



Table of Contents

Executive Summary	1
Acknowledgments	2
Introduction	3
Necessity of Regulation.....	4
Litter and Waste Management	4
Litter – Land and Marine.....	4
Bag Reuse.....	5
Recycling and Retail Efforts	6
Waste Management.....	6
Biodegradable Bags	7
Wildlife and the Environment.....	8
Marine and Land Animals	8
Plastic Bag Degradation.....	9
Plastic Pellets	9
Water Pollution/Chemical Leaching.....	10
North Pacific Gyre	10
Life Cycle Analyses	11
Conclusions on the Necessity of Regulation	13
Efficacy of Regulation.....	15
Regulatory and Non-Regulatory Options	15
Bans.....	15
Fees and Taxes	16
Voluntary Measures	17
Phase-Out.....	17
Local Government Regulations.....	18
Other National and International Regulations	18
Conclusions on Efficacy of Regulations	18
Appendices	22
Appendix A: Energy, Climate Change, and Economic Security Act of 2008	23
Appendix B: Current Efforts of Retailers in Regards to Bags	24
Appendix C: List of Groups, Organizations and Grass-Roots Efforts.....	26
Appendix D: Local Enacted Regulations in the United States	28
Appendix E: National and International Bag Regulations.....	29
Appendix F: Bibliography	52



Executive Summary

“Paper or plastic?” Millions of Floridians hear the question every week. Almost every retail establishment has a bag for its customers and Americans used almost 90 billion of them in 2003. Retail bags are most commonly paper and plastic single-use bags. Only a relatively small percentage are reused or recycled (12% of plastic bags and 37% of paper bags) while far too many damage the environment because people improperly handle and dispose of them. Besides being unsightly litter, discarded plastic bags harm land and marine wildlife, interfere with landfill operations, clog flood control systems, and breed mosquitoes. These problems are not unique to Florida. The most dramatic illustration of the environmental damage from plastic bags and other marine debris are the floating “garbage patches” in the Atlantic, Pacific and Indian Oceans – the largest covering an area almost twice that of the United States.

*Only 12% of plastic bags
and 37% of paper bags are
reused or recycled.*

As part of the Energy, Climate Change, and Economic Security Act of 2008 (Section 403.7033, Florida Statutes), the Florida Legislature directed the Department of Environmental Protection to undertake an analysis of the need for new or different regulation of auxiliary containers, wrappings, or disposable plastic bags used by consumers to carry products from retail establishments. The information contained within this report provides an assessment of the impacts associated with current use and disposal of these containers as well as an analysis of the efficacy and consequences associated with several potential policy options to provide policymakers the information needed to weigh and balance the effect of proposed actions on the environment, regulated community and the consumer.

The *necessity* of retail bag regulation is determined by examining the impact of retail bags on the environment. *Efficacy* is determined by examining the effectiveness of governments outside Florida in reducing the number and impact of retail bags through regulation. Nationally, retail bag regulations have been enacted or proposed at either the state or local level in 30 states. Retail bag regulations are also found on the six populated continents.

Improper handling and disposal of retail bags has been shown to harm the environment. While plastic bags may appear to be the major problem, the solution is not to switch to paper. Life cycle analyses show a higher level of environmental harm from manufacturing to disposal of paper compared to plastic bags. A switch to biodegradable or compostable bags is not the answer either. Since Florida has no solid waste commercial scale composting facility to handle these bags, they would end up in a landfill just like paper or plastic bags.

There are many locations with different types of retail bag regulations. While all strategies to reduce the use of retail bags have merit, some are more effective than others. Although they initially pose an inconvenience for some consumers, bans produce the fastest results, closely followed by user fees and taxes. Voluntary efforts are more readily accepted by the retail

industry and the public, but take more time to produce results. While voluntary efforts can be helpful in changing behavior patterns, their effectiveness is dependent on the number of retail establishments participating. Public education is crucial to any approach, to illuminate the damages caused by single-use bags, and the cost to undo the harm, and promote reusable bags. Collaboration with the retail sector is also essential.

Plastic and paper bags are not inherently bad but they have terrible consequences in a throw-away society – and there are simple, readily available ways to reduce our dependency and properly reuse, recycle or dispose of them. This report identifies strategies to discourage the use of single-use paper and plastic retail bags and encourage the use of reusable retail bags. With the cooperation and support of the retail industry working closely with local and state government, this goal can be achieved.

Acknowledgments

The Florida Department of Environmental Protection (DEP) extends its gratitude to the many stakeholders from the public and private sectors that invested their time and contributed their insights to the development of this report through public meetings, written comments and electronic submissions.

Two public meetings were held to exchange information and solicit input on the retail bags report and the surrounding issues. These meetings generated lively discussion and valuable information that helped produce this report.

- November 19, 2008 in Orlando - 36 attendees, excluding DEP staff
- November 19, 2009 in Tallahassee - 27 attendees, excluding DEP staff

DEP also established a web-based forum for ongoing public comments and regular stakeholder updates. Meeting summaries, draft notes and other details, as well as access to the web-based forum, can be found at www.dep.state.fl.us/waste/retailbags. This site has been visited nearly 6,000 times.

DEP also appreciates the involvements of the professional associations and trade organizations that effectively represented their members' interests and were critical in identifying options and recommendations:

- American Chemistry Council
- American Forest and Paper Association
- American Paper Bag Council
- Florida Dry Cleaners Coalition
- Florida Recycling Partnership
- Florida Retail Federation
- Recycle Florida Today
- Sierra Club of Florida

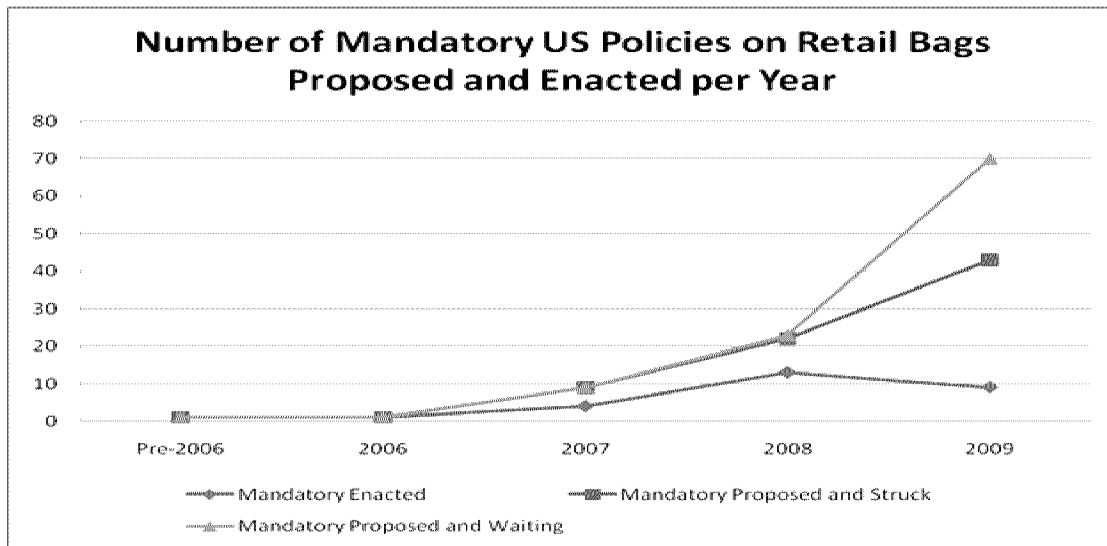
Introduction

Americans used almost 90 billion retail bags in 2003, most of which are used only once and end up in landfills or stormwater systems or littering roadsides, green spaces and beaches across Florida. As part of the Energy, Climate Change, and Economic Security Act of 2008 (Section 403.7033, Florida Statutes, see **Appendix A**), the Florida Legislature directed the Department of Environmental Protection to undertake this analysis of the need for new or different regulation of auxiliary containers, wrappings, and disposable plastic bags used by consumers to carry products from retail establishments. The following explanation of these terms is included to assist the reader. In this report, these are all generally referred to as “retail bags” or “single-use” bags:

- **Auxiliary container:** A secondary container into which a product is placed for transport by a consumer. It includes reusable bags, paper bags, gift bags, gift boxes, hat boxes, and cloth bags—everything but plastic bags.
- **Wrappings:** Includes plastic wrapping for items that are used to protect and transport the items within.
- **Disposable plastic bags:** Includes plastic bags (of any thickness) used by consumers to carry products from establishments. These bags are not necessarily meant to be re-used multiple times, but may have beneficial secondary uses.

The report examines the impact that the improper handling and disposal of retail bags has on wildlife and the environment as a whole. It also includes examples of cities, states, and countries around the world that have taken steps to decrease the use of both plastic and paper retail bags. **Figure 1** shows that the number of mandatory policies for bag reduction in the U.S. has increased steadily since 2006. These actions are considered in light of voluntary measures being taken by various retail establishments in Florida. This review has yielded twelve options to be considered by the Legislature.

Figure 1



Necessity of Regulation

There are two major areas of concern regarding retail bags. First, improper disposal of retail bags hampers recycling, waste management, stormwater management, and litter control. Second, improper disposal damages natural systems and wildlife. These concerns are not unique to Florida, and how Floridians manage retail bags has implications beyond the state's borders. Retail bags fast become pollution affecting Florida's fresh and saltwater resources, animal welfare and, on a grander scale, the health of the world's oceans. Any consideration of regulating retail bags has to account for the worthwhile efforts already underway to reduce the number of bags in circulation or recycle them.

Litter and Waste Management

Litter - Land and Marine

When examining retail bags as litter, DEP looked at previous studies in Florida and neighboring states, including studies that specifically targeted retail bag litter and auxiliary containers such as fast food bags and boxes. The most recent Florida roadside litter study was in 2002 and included plastic bags, paper bags and cardboard containers, referred to as "outer packaging." The study found:

- All types of plastic bags accounted for 1.21% of all large litter items,
- Paper bags, including those that are used specifically to hold take-out food items, accounted for 0.64% of all large litter items,



- When cardboard boxes are included, these “outer packaging items” accounted for 2.23% of all large litter, and
- Plastic film, which may be partially degraded, ripped or shredded plastic bags, accounted for 8.74% of all small liter items found.
- Overall, there was an estimated 25% increase in large item litter density from 2001 to 2002 and a 37% decrease in small item litter density¹.

The 2007 International Coastal Cleanup Report, a publication compiled by the Ocean Conservancy with reporting performed by volunteers, states that bags are the fourth most frequently found item during coastal cleanups worldwide, accounting for 8.1% of all items found². The Florida-specific report from this international effort shows similar results with bags again ranking as the fourth most commonly found item³. Roadside litter studies from other areas have retail bags and fast food bags accounting for less than 3%⁴. Clearly, reducing plastic and paper bags will not solve the litter problem, but they are a manageable source that can make a difference.

Bag Reuse

Some people reuse their plastic and paper bags for a variety of purposes. One concern posted often on the DEP web forum is that regulation of paper or plastic bags would prevent people from reusing bags for pet waste pickup and in-home trash. Surveys performed in Australia show that 60-75% of shoppers reuse their plastic shopping bags for one additional use after bringing them home from the store, most commonly for pet waste and trash liners.⁵ However, reuse and recycling rates for plastic bags in Florida are far lower, only around 12%.

That said, there are opportunities for reuse of non-retail plastic and paper bags. Frequently, grocery and drugstore products have secondary or primary containment within a plastic or paper bag. Small changes, such as using bread bags instead of plastic retail bags for pet waste pickup, can ease the perceived inconvenience of losing retail bags if regulations were to be enacted. Education is one key to helping consumers make better choices.

Estimating how many disposable bags would be replaced by one reusable bag is difficult. However, many life cycle analyses and other reports have attempted to do this. The range for the number of “disposable” plastic bags that could be replaced by one reusable bag in a year’s time, according to the analyses DEP reviewed, is between 56.8 to 315.15 “disposable” plastic bags replaced by a

According to analyses, between 56.8 and 315.15 disposable plastic bags are replaced by a single reusable bag in one year.

¹ Hinkley Center for Solid and Hazardous Waste Management, 2002

² Ocean Conservancy, 2007

³ Ocean Conservancy, 2008

⁴ MGM Management, 2002, Southeast Environmental Association, 2009

⁵ Environment Protection and Heritage Council, 2002

single reusable bag. The actual number replaced would depend on the shopping habits of the owner of the bag, the material from which the re-usable bag is made, the size of the bag itself and whether or not it is a single trip replacement or lifetime replacement. Still, even at the low end – taking nearly 60 disposable bags out of circulation for every one reusable bag – is remarkable.

Recycling and Retail Efforts

Recycling is another option available to consumers rather than reusing the bags or just throwing them away. Designated retail bag recycling containers are found at several retail stores. The city of Parkland (Broward County) works with local Publix grocery stores and holds a plastic bag recycling contest for schools and coordinates with homeowners' associations to place additional plastic bag recycling bins around the city.⁶

Besides local governments, many large retailers have shown leadership in recycling and reuse. Many have sold or given away millions of reusable shopping bags over the last few years.

Appendix B lists a few of these retailers and includes their efforts at reducing the use of disposable retail bags. There are also a large number of organizations and grass-roots efforts around the world working to reduce the use of disposable retail bags, recycling or improved technology. **Appendix C** includes a partial list of organizations and their websites.



As noted, the U.S. Environmental Protection Agency (EPA) estimates that 12% of all plastic bags are recycled. More than 4 million tons of plastic bags, sacks and wraps were reported to be generated in the U.S. municipal solid waste (MSW) stream in 2007, with only 11.9% of the high density polyethylene (HDPE) and 12.4% of the low density polyethylene (LDPE) bags, sacks and wraps being recovered (recycled). To derive these data, the EPA used the American Chemistry Council's annual resin reports for generation amounts, and data from the American Chemistry Council and the National Association for PET Container Resources to determine recovery rates.⁷

Waste Management

Retail bags cause equipment and operational problems at recycling facilities, landfills and waste transfer stations. The machinery on trucks and separators is frequently impaired because plastic bags wrap around wheels, gears and other parts of the equipment, forcing work to stop while someone extracts the plastic and restarts the process. This happens daily at recycling facilities and employees risk injury by reaching into sharp or pinching areas to free the plastic from the machinery.

⁶ Archer, 2009

⁷ US EPA, 2007

At landfills retail bags also get wrapped around spreaders and other equipment as well as cause problems by becoming airborne. Some waste management professionals consider plastic retail bags to be the number one “fly away” issue at landfills. Litter flying off landfills angers nearby residents, requires extra work to pick up and return the escaped trash, and may require additional daily landfill cover.

Retail bags frequently clog stormwater pipes, clutter stormwater retention ponds, and are regularly found by crews cleaning roadways, ditches and flushing pipes. In Tallahassee (population 172,000) there are three large flush trucks with two-person crews that work every day to keep stormwater drains open.⁸ There are more than ten people assigned to perform daily trash pickup from stormwater drains and ditches. The city also employs another six people to pick up roadside trash and utilizes inmates to assist with this job.⁹

In Marco Island, a flood was found to be caused by drains clogged with palm fronds, coconuts and plastic bags.

In Marco Island, an April 2008 flood was found to be caused by drains clogged with palm fronds, coconuts and plastic bags.¹⁰ In other areas of the world, plastic bags have been directly linked to flooding and even to malaria outbreaks.¹¹ Plastic retail bags are not the only culprit but, again, they are a source that readily can be controlled.

Biodegradable Bags

Biodegradable and compostable bags are gaining attention as alternatives to plastic and paper bags. The technology has improved since first introduced and some manufacturers now market biodegradable bags with a “lifespan.” There are multiple types of biodegradable and compostable bags. Compostable bags should meet ASTM D6400-04, the standards for plastics designed to be composted in municipal and industrial aerobic composting facilities.

Biodegradable bags now fall into the following categories:

- Photo-degradable react to ultra-violet light to break down.
- Hydro-biodegradable react to “moist biologically active” environments to break down.
- Oxo-biodegradable use additives to react with the atmosphere in order to break down.¹²

While bags that do not persist in the environment sound like a positive step, there are serious drawbacks. All types of biodegradable and compostable bags must be placed under specific conditions to degrade properly. For instance, a photo-degradable bag will not break down if it is covered by water or otherwise obscured from light and an oxo-biodegradable bag requires

⁸ U.S. Census Bureau, 2009

⁹ Yarborough, 2009

¹⁰ Dillon, 2008

¹¹ United Nations Environment Programme (UNEP), 2005

¹² Scott, 2002

direct access to oxygen and sunlight to degrade. Any consumer who places a labeled “biodegradable” bag in the home compost pile will not see the promised degradation because the required high temperatures achieved in municipal composting facilities cannot be achieved with home composting. Additionally, some of these bags leave plastic pieces or other residues when they break down, leftovers that natural systems and wildlife cannot tolerate. Finally, biodegradable bags inadvertently lead to litter because consumers assume the bags will quickly break down or compost, whatever the conditions; they discourage environmental stewardship.

Wildlife and the Environment

The problems caused by throw-away bags do not affect humans alone. Auxiliary containers, retail bags and wrappings can change the ecosystems of rivers, streams, lakes, ponds, estuaries, and oceans. The bags block sunlight from reaching into the depths of the water, leading to stress on aquatic vegetation, plant death and a reduction in the oxygen level of the water. Unnaturally low oxygen levels kill fish and other animals. In addition, filter feeders ingest the plastic particulates that are produced by the degradation of plastic in the water. The effect of this latter phenomenon on the rest of the food chain over the long term is not currently known.¹³

Marine and Land Animals

A major concern about plastic bags is their role in the death of marine animals. Research shows that frequently this number is exaggerated or simply misstated. A commonly stated “fact” that is widespread on the internet is that 100,000 animals are killed annually by plastic bags. The citation for this number is from a Canadian study which did *not* point to plastic bags as the cause of death but instead attributed these deaths to discarded fishing nets.¹⁴

However, it is true that researchers are finding some animals that have ingested or become entangled in plastic bags, although rigorous scientific research is just beginning. Testimonials from beach cleanups and other litter cleanup efforts, sometimes supplemented with photos or videos, show the suffering and deaths of animals caused by plastic containers—a consequence, however anecdotal at this point, that is difficult to rationalize when solutions are within reach. Many marine animals including sea turtles and the larger predators (whales, seals, sea lions, etc.) are already classified as endangered or protected. A variety of research has shown that turtles and other sea dwelling creatures ingest plastic and plastic bags. One study found plastic in the stomach of 15% of the 66 post-hatchling loggerhead sea turtles surveyed.¹⁵

There is some evidence that land animals can also be harmed by retail bags and auxiliary containers. Vehicular deaths of scavenging animals, including birds and raccoons, are

¹³ Thompson, et al., 2004

¹⁴ Piatt & Nettleship, 1987

¹⁵ Witherington, 2002, Thompson, et al., 2004, Mato, Isobe, Takada, Kanehiro, Ohtake, & Kaminuma, 2001

frequently attributed to the litter thrown out of cars. The accompanying food waste attracts the animals to the road or roadside and they are struck while trying to feed.¹⁶

In India, plastic bag regulations were enacted in part to preserve the health of cows. The cattle, considered sacred, were similarly attracted to the food waste found inside discarded bags and were consuming the food waste and bag as one. As more cows died, measures were taken to reduce suffering and deaths of animals with stomachs full of plastic bags.¹⁷

Animals that scavenge at landfills are also injured or killed because of the availability of auxiliary containers, plastic bags and wrappings. Scavenging birds and birds of prey hunting rodents can become entangled in the wrappings or bags or ingest large amounts of plastic.¹⁸

Deer, raccoons, possums, bears and other garbage and landfill scavengers have also been found with retail bags within their guts or have been seen eating such items. Retail bags, plastic in particular, can cause digestive system obstruction and lead to a variety of deaths, including starvation.¹⁹

Plastic Bag Degradation

The effect of plastic upon the oceans is not limited to the ingestion of plastics by marine animals. As plastic degrades, it flakes and breaks into small, fairly flat particles. These particles are not unlike plankton in size and appearance and have been found floating in the open ocean. In some places these particles are estimated to outnumber actual plankton. A research ship from the Algalita Marine Research Foundation has preliminary data from 2008 showing a total ratio of plastic to zooplankton for all samples of 8 to 1. In one sample, the ratio was 46:1, plastic to plankton.²⁰

A National Oceanic and Atmospheric Administration (NOAA) study in 2008 determined a lower ratio.²¹ However these two studies were performed in different areas at different times of the year. As with the filter feeders in brackish and fresh waters, the effect of plastics ingestion on the food chain is unclear. The world's largest marine mammals, blue whales, are filter feeders that eat an estimated 2,000 to 9,000 lbs of plankton and krill – or other things that cross their filters – every day.

Plastic Pellets

In addition to the bags, wrappings and containers that go out as litter or waste and degrade from their useful stage into small plastic particulates, there is another plastic problem in the oceans. The raw materials used in manufacturing can also escape from the manufacturing plant and degrade in the environment. When plastic is created, it starts as large amounts of very small, spherical pellets called “nurdles.” Since nurdles are small and light, and therefore

¹⁶ Harris & Scheck, 1991

¹⁷ Edwards, 2000

¹⁸ Molina & Garrett, 1998, Elliott, Duffe, Lee, Mineau, & Elliott, 2006

¹⁹ Drever, 1997, Stone, Okoniewski, & Stedelin, 1999, Jonkel, 1994, Totton, 1997

²⁰ Algalita Marine Research Foundation, 2009

²¹ Doyle, 2008

highly mobile, a large amount is lost in transport and manufacturing and ultimately washed into stormwater drains or sewers.²²

When these nurdles reach waterways they degrade similarly to plastic bags but instead of flaking off in small layers they lose small amounts of plastic and gradually become smaller and smaller plastic balls. Nurdles can look like a number of oceanic food items, not the least of which is fish eggs. One study performed on seabirds showed 55% of the bird species studied had ingested plastic particles.²³ It is unknown if any chemicals from the plastic can be absorbed by the bird's body, but it is known that ingestion of large amounts of non-food items can cause gut obstruction and ultimately death by starvation or nutrient deprivation.

The actual number of nurdles released to the environment each year is unknown, but they have been found in the oceans and seas for decades. Researchers began studying nurdles and their effects on the oceans in the 1970s.²⁴ In 1993, the U.S. EPA Office of Water published a report on plastic pellets that identified them as being of particular concern.²⁵

Water Pollution/Chemical Leaching

Plastic bags are made from natural gas or petroleum. Plastic bags made in the U.S. are usually made from natural gas while imported bags are more likely to be made directly from petroleum.²⁶ In 2004, the U.S. International Trade Commission reported that the trend in plastic bag use in the U.S. was an increase in imported bags and a decrease in domestically produced bags, but an overall increase in bag consumption. Assuming the trend has continued, most bags consumed in the U.S. are made from petroleum.²⁷

There are many other chemicals and slight impurities in the composition of plastic bags. As the bags degrade, some of these chemicals are released into the water or atmosphere. It is likely that degradation of plastic bags releases greenhouse gases although estimates as to the amount that may be released could not be found. In addition, the plastic nurdles or pellets have actually been found to absorb and become a transport medium for toxic chemicals, including PCB (polychlorinated biphenyl) and DDE (Dichlorodiphenyldichloroethylene, a DDT breakdown product).²⁸

North Pacific Gyre

Plastic-filled "garbage patches" and "plastic gyres" in the oceans have been media topics in recent years and the subject of much discussion. An ocean gyre is a circular ocean current created by the winds. There are five major ocean-wide gyres, the North Atlantic, South

²² Redford, Trulli, & Trulli, 1997

²³ Lee & Moser, 1992

²⁴ Carpenter & Smith, 1972

²⁵ U.S. EPA Office of Water, 1993

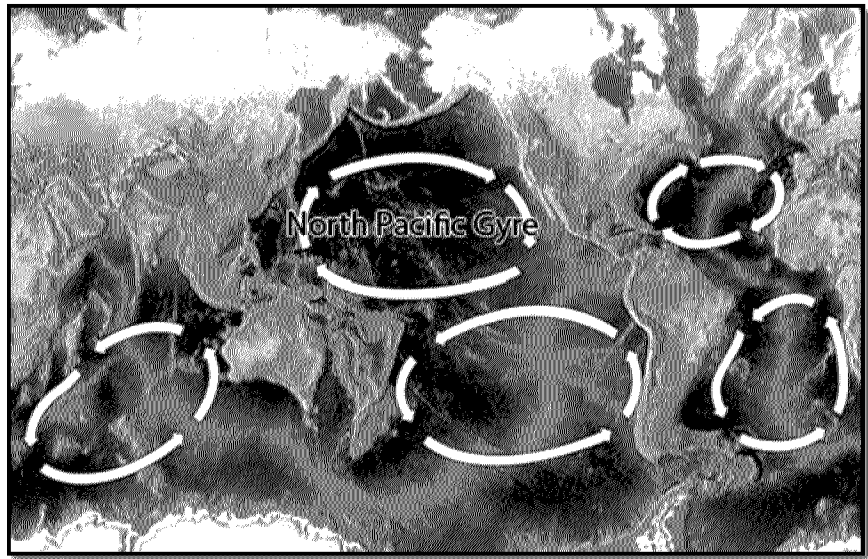
²⁶ U.S. International Trade Commission, 2004, American Chemistry Council, 2007

²⁷ American Chemistry Council, 2007

²⁸ Mato, Isobe, Takada, Kanehiro, Ohtake, & Kaminuma, 2001

Atlantic, North Pacific, South Pacific and the Indian Ocean gyres. Drifting items can become a part of the gyre and in some places large amounts of floating debris held within the gyre by currents have been named garbage patches and plastic gyres.

Research from many sources, including the NOAA and an independent research team from Algalita, shows that there are current-produced gyres in the oceans and most of them hold large amounts of marine debris. The most publicized gyre is a North Pacific Gyre, an area roughly twice the size of the U.S. stretching between the coasts of western North America and eastern Asia. Initially it was thought that within the North Pacific Gyre there were



smaller gyres, patches about the size of Texas, filled with garbage. Research now shows that the marine debris is not limited to these patches and higher levels of debris density have been found outside these areas.²⁹

Life Cycle Analyses

This analysis has primarily focused on the plastic auxiliary containers, wrappings and bags because paper bags and containers more readily degrade, are more readily recyclable, and are less likely to be the cause of death in animals because they can be digested more easily. In 2007 the EPA estimated that 36.8% of all paper bags and sacks generated were recycled, about three times the rate for plastic.³⁰ The higher rate of recycling for paper bags indicated in **Figure 2** versus the 12% recycling rate for plastic bags shown in **Figure 3** is often attributed to the fact that most local recycling programs will accept paper bags but not plastic bags.

²⁹ Algalita Marine Research Foundation, 2009

³⁰ U.S. EPA, 2007

Figure 2

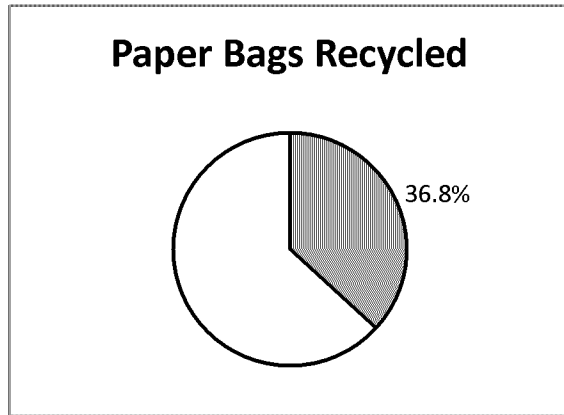


Figure 3

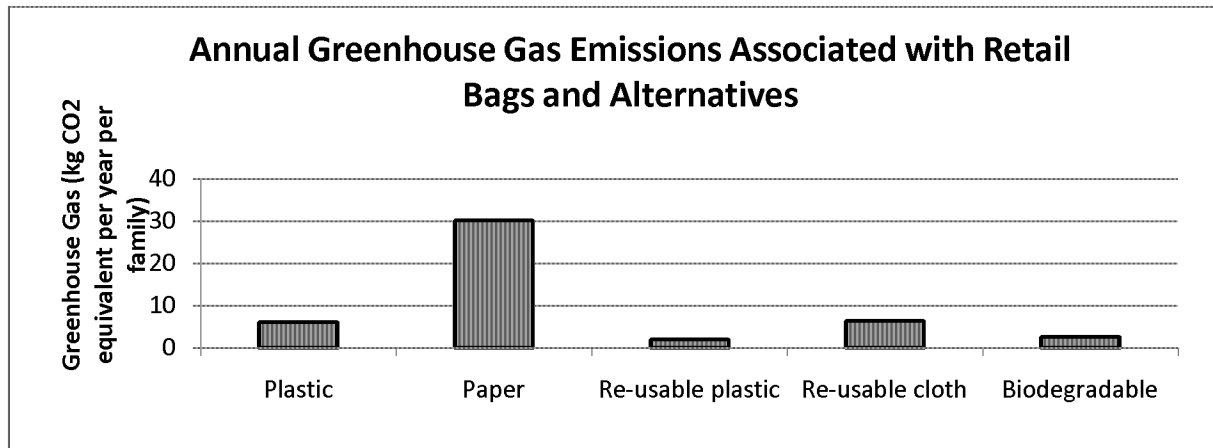


Paper bags are often not considered a problem or, indeed, are sometimes seen as the solution to the plastic problem. Conventional wisdom is wrong. When reviewing life cycle analyses of paper bags and plastic bags, it is evident that there are more negative overall environmental impacts attributed to the transport and production of paper bags. **Figure 4** shows a comparison of the annual greenhouse emissions associated with retail bags. This evidence, and more likely the fact that paper bags are more costly than plastic bags, explain – and even support – the preference of plastic over paper.³¹

Both types of bags comprise approximately the same amount of recycled content. The manufacturing industries for both paper and plastic claim an average recycled content of 30% for the typical bag produced. The life cycle analyses reviewed for this report indicate that increased recycled content does reduce greenhouse gas emissions and related environmental impacts when compared to bags made with virgin materials. However, recycled content is only a step in the right direction – protecting Florida’s wildlife and the environment is contingent on better handling and a reduced demand for the manufacture of paper and plastic bags.

³¹ Hyder Consulting Pty Ltd., 2007, Herrera Environmental Consultants, Inc., 2008

Figure 4



32

Conclusions on the Necessity of Regulation

While evaluating the necessity of bag regulations, the good practices that citizens and retail establishments are already undertaking to reduce the number of retail bags in circulation must be recognized.

As previously noted, current efforts among grocery stores, such as Food Lion, Publix, Albertsons and Winn Dixie to offer the opportunity to recycle and use reusable bags help change the mind-set of a throw-away society. Large retailers such as Target and Walmart

employ similar practices and help increase the number of shoppers exposed to this way of thinking and acting. Nationwide, Walmart has committed to reducing plastic bag usage in their stores by 25% per store by 2013.

Walmart has committed to reducing plastic bag usage in its stores by 25% per store by 2013.

The question then becomes – will these actions be enough to rule out the need for any retail bag regulation? About thirty states have enacted or proposed regulations statewide or at the local level. In April 2009, Congress introduced the “Plastic Bag Reduction Act of 2009” (H.R. 2091). Retail bag regulations are also found on all six populated continents. Worldwide, the number of countries with retail bag regulations has been steadily increasing since the early 1990’s. There are 41 locations with bans, 16 with taxes or fees, 28 with other restrictions or regulations, and 52 that currently have one or more proposed regulations.

Of the eight states in Environmental Protection Agency (EPA) Region IV, including Florida, there is one that has enacted retail bag regulation. In June 2009 the North Carolina General Assembly passed Senate Bill 1018, which bans retail stores in the Outer Banks from distributing plastic bags to customers and allows paper bags to be given away only if the bag is made of recycled content.

³² James & Grant, 2005, Environment Protection and Heritage Council, May 2008

Of the nation's ten most populous states (Florida is #4), eight have proposed or enacted retail bag regulations at either the state or local level: California (#1), Texas (#2), New York (#3), Illinois (#5), Pennsylvania (#6), Ohio (#7), Michigan (#8) and North Carolina (#10). There has been some interest in regulating retail bags at the local level in Florida. Bonita Springs (Lee County) considered including retail bag bans as a legislative priority in 2009. Additionally, the cities of Sarasota (Sarasota County), Parkland (Broward County), Miami (Miami-Dade County) and Key West (Monroe County) all considered regulations on retail bags before the Legislature enacted a stay on local government regulations in 2008 and directed DEP to prepare this report.

Efficacy of Regulation

Many citizens, businesses and governments across the U.S. and the world have already decided that retail bags have to be better managed. What, then, are the most efficient and effective ways to do so? Regulatory and non-regulatory options, and the ways they can be integrated, have to be examined to answer the question. So do the incentives and disincentives that could be applied at the retail and consumer levels.

There are several things to consider when assessing the efficacy of statewide and local regulation of retail bags. Clearly the effectiveness of regulations would be measured by the reduction of single-use retail bags. Perhaps efficacy could also be measured by behavior change. If consumers simply no longer have the option of receiving a single-use bag, is the effort effective? Without behavior change and education, it is possible that consumers may make choices that are equal to if not worse than the current situation. To avoid this, consumers must have sustainable options to compensate for single-use retail bags. It would also be helpful to have a combination of incentives and disincentives supported by the retail industry to increase the use of reusable bags.

The following sections discuss various regulatory and non-regulatory approaches used by other cities, states and countries, including twelve options posed for consideration in Florida.

Regulatory and Non-Regulatory Options

Bans

Banning auxiliary containers, wrappings or plastic bags has rarely been enacted into law at higher than local levels. In the U.S., with one notable exception, only a few small villages in Alaska, a small town and a county in Hawaii, a county in Iowa, four cities in California, and one other town in Washington have enacted bans on retail bags. Many other places have proposed or considered bans. A few communities in Florida, including Parkland in Broward County, considered a ban before the stay on retail bag legislation was enacted by the 2008 Legislature.

The most publicized location in the U.S. with a ban is San Francisco, California. The city passed an ordinance in April 2007 that requires pharmacies and supermarkets with gross annual sales of \$2 million or more to provide only paper, compostable bags or reusable bags. Proponents of the ban assert that there has been a 5% to 10% reduction in the amount of plastic bags reaching the landfill. Ross Mirkarimi, the City Supervisor and primary author of the ban, has been quoted to say that up to 127 million fewer plastic bags have been distributed in San Francisco just one year after the ban went into effect.³³

³³ Eskenazi, 2009

More recently, as noted earlier, the North Carolina Legislature passed a ban for the Outer Banks. The ban prohibits retail stores having more than 5,000 square feet of retail space or that are part of a retail chain from distributing plastic bags to consumers and allows paper bags to be given away only if the bag is made of 100% recycled content. Because the ban only went into effect September 1, 2009, data on its impact is not yet available.

Fees and Taxes

Several places worldwide have passed fees or taxes on auxiliary containers, wrappings, or plastic bags. There are no locations in the United States that have enacted a fee or a tax on retail bags, but several locations have proposed or considered a retail bag tax. In all cases the proposal was dropped or voted down.

There have been some successes and some unintended consequences that merit examination.

- The Seattle, Washington City Council passed a twenty cent “green fee” on all disposable shopping bags in July 2008, but the fee would not become effective until approved by voters. On August 18, 2009 the citizens of Seattle voted against the “green fee” by a margin of 58% to 42%.
- Perhaps the most notable plastic bag tax was enacted in Ireland in 2002. The first year of the tax saw a 90% or greater reduction in plastic bag usage but an increase in the purchase of trash bags and dog waste pickup bags. Additionally, each successive year saw increased plastic bag usage. Because of this, the government increased the tax in 2007. After that, plastic bag litter was reduced from 5% of all litter to less than 0.3% percent the first year and to less than 0.25% in successive years.
 - Despite the initial setback, the levy was very popular. A 2003 national survey found that 91% of those surveyed were in support of the tax. A previous study performed in 1999 showed that 40% of survey respondents would have been willing to pay such a tax.³⁴
 - All the funds from the Irish levy, in an effort to make the tax more acceptable to consumers, were placed in the “Environment Fund” and are used solely for environmentally related purposes. As reported in 2007, the levy has raised more than €85 million (\$120 million) and has been used for many projects ranging from creating recycling facilities and return centers to educational campaigns. The revenues have also been used to help fund recycling facility operational costs and enforcement of waste management laws.³⁵
- More recently, the City Council of the District of Columbia voted to create a five cent tax on both paper and plastic bags. The bill was signed by the mayor in July 2009 and will go into effect on January 1, 2010. The purpose of the bill is two-fold: to promote the use of reusable shopping bags and to add funding to the Anacostia River Cleanup and Protection Fund. One cent per bag is to stay with businesses and four cents is to go to the fund to help clean up the Anacostia River.

³⁴ Kildare County Council, 2008

³⁵ McDonnell, Convery, & Ferreira, 2007

Voluntary Measures

Voluntary measures are important but difficult to quantify. Many retailers in Florida have enacted campaigns to reduce plastic bag usage. Reusable bags are available for purchase at nearly all the major chain retailers and a number of retailers have given reusable bags as promotional items.

Albertsons gives customers five cents back on their purchase for every non-plastic bag used. Target and CVS have also

recently implemented programs to give cash back to customers who bring in their own bags. Started in November 2009, the Target program gives customers a five-cent discount for every reusable bag used at checkout. In October 2009, CVS customers began to receive a one dollar bonus on their CVS cards for every four times a reusable bag is used. Publix, Food Lion, and Walmart all offer in-store or on-premises plastic bag recycling receptacles for customers.

Appendix B is a list from the Florida Retail Federation describing current efforts of retailers in Florida.

Target gives customers a five-cent discount for every reusable bag used at checkout.

In Austin, Texas there is a voluntary plastic bag use reduction and recycling program developed in partnership with Keep Austin Beautiful, The Texas Retailers Association, the Progressive Bag Affiliates, local retailers and the city of Austin. According to the city, Austin shoppers at participating retailers increased plastic bag recycling by more than 20% from 2006 to 2008 and stores gave out 40% fewer plastic bags at checkout. The program utilized an awareness campaign that included a campaign logo and reusable bag design contest, a kick-off event, a youth art contest, reusable bag day promotion, and a campaign website.³⁶

Phase-Out

Phasing out retail bags is another method used to reduce the number of single-use retail bags and to help increase awareness. Typically, a phase-out is a multi-part approach often combining fees and bans progressively. There are no locations in the U.S. that have enacted a phase-out but several have proposed language with increasing fees or yearly requirements for decreasing retail bag usage.

The Ministers of the Environment Protection and Heritage Council (EPHC) in Australia agreed in October 2002 to pursue a number of actions relating to reducing the adverse impacts of plastic bags on the Australian environment. A number of work groups were put together to address different aspects of the issue. On July 1, 2005, after reviewing the research and report on the issue, the EPHC agreed to a phase-out of lightweight plastic shopping bags by the end of 2008. All shoppers and retailers were expected to have alternatives in place by December 31, 2008. However, after an analysis in April 2008 showed the economic costs of a regulatory

³⁶ Austin City Connection, 2008

phase out would significantly outweigh the environmental benefits, the EPHC resolved not to endorse uniform regulatory action at this time.

Local Government Regulations

As previously stated, there are no local regulations enacted in Florida due to the legislative preemption enacted in 2008. But there are local efforts outside the state, the majority being less than two years old. **Appendix D** lists all known locations with local regulations.

Since there are so many types of local regulations that affect varying populations and varying numbers of retailers and the regulations are so new, there is little data regarding their efficacy. However, there are some effects common to all local regulations. Differing local regulations are more difficult for chain retail stores to implement because they are regionally managed covering many communities or even states. Additionally, it is more difficult to realize widespread environmental benefits from local regulations if the affected areas are small. Enacting retail bag policies at the state level is easier for retailers to implement and can have broader environmental benefits. However, these considerations have to be balanced with the needs and demands of local citizens, and the expertise of local governments in preserving their local environment. The approaches are not mutually exclusive.

Other National and International Regulations

DEP has researched and compiled a summary of retail bag regulations throughout the United States and other countries. There are 33 countries worldwide that have enacted or proposed retail bag regulations. This information can be found in **Appendix E** and more information, with interactive maps is available on the DEP Retail Bag Report website at: www.dep.state.fl.us/waste/retailbags. These maps are regularly updated as DEP receives information regarding retail bag policies worldwide.

Conclusions on Efficacy of Regulations

While all mechanisms to reduce retail bag usage have merit, some are more effective than others. Bans produce the fastest results in reducing plastic bag use; fees or taxes follow closely behind. Governments with fees or taxes usually devote at least some of the revenue to environmentally-related funds, although some allow retail stores to keep a portion of the proceeds. Many people and retailers prefer voluntary efforts simply because they are voluntary and because no new fees or administrative costs are required.

The pros and cons associated with each option in the report are included to provide policymakers with the information needed to balance the effect of any actions taken in the future.

An effective educational campaign promoting reusable bag use and educating the public about the problems caused by single-use plastic and paper bags cannot be underestimated. Appropriately accounting for the legitimate concerns and entrepreneurial creativity of the retail sector is also essential to any successful campaign. The following table summarizes twelve options for reducing the use of single-use paper and plastic retail bags. The options should be considered both on their own merits and as they integrate well with other options to reverse the current practice of widespread use of disposable retail bags.

Finally, an assessment of the efficacy and consequences (pros and cons) associated with each option is included to provide policymakers the information needed to weigh and balance the effect of any potential actions on the environment, regulated community and the consumer.

Options for Discouraging and Reducing the Use of Single-Use Retail Bags

Option	Pros	Cons	Additional Comments
1. Enact an educational campaign	• Easy to implement	• Limited impact unless coupled with other option(s)	
2. Encourage In-Store Recycling	• Utilizes infrastructure that already exists in many stores • Increases recycling • Produces moderate quality feedstock • Material is in demand	• May be costly to stores • Does not accommodate compostable /biodegradable alternatives • Low to moderate participation in existing programs	
3. Retail Stores offer Reusable Bag Credit	• Allows retailers to be proactive • Gives retailers flexibility • Attractive to customers • Incentive aimed at changing behavior – reducing consumption	• Not attractive to all retailers • Credit is usually small (1 to 5 cents) and therefore undervalued by consumers	• Target performed a pilot study of a reusable bag policy at 100 stores and found a 58% reduction in the number of plastic bags used
4. Require biodegradable bags as an option at checkout	• Bags are easy for stores to purchase • Customers feel “greener”	• Bags are expensive, cost will be passed on to customers • Confusing for consumers who don't realize that the bags will not biodegrade in backyard composters • Can contaminate plastic recycling	

Appendix F

Select Year:

The 2016 Florida Statutes

[Title XXIX](#)

PUBLIC HEALTH

[Chapter 403](#)

ENVIRONMENTAL CONTROL

[View Entire Chapter](#)

403.7033 Departmental analysis of particular recyclable materials.—The Legislature finds that prudent regulation of recyclable materials is crucial to the ongoing welfare of Florida’s ecology and economy. As such, the Department of Environmental Protection shall undertake an analysis of the need for new or different regulation of auxiliary containers, wrappings, or disposable plastic bags used by consumers to carry products from retail establishments. The analysis shall include input from state and local government agencies, stakeholders, private businesses, and citizens, and shall evaluate the efficacy and necessity of both statewide and local regulation of these materials. To ensure consistent and effective implementation, the department shall submit a report with conclusions and recommendations to the Legislature no later than February 1, 2010. Until such time that the Legislature adopts the recommendations of the department, no local government, local governmental agency, or state government agency may enact any rule, regulation, or ordinance regarding use, disposition, sale, prohibition, restriction, or tax of such auxiliary containers, wrappings, or disposable plastic bags.

History.—s. 96, ch. 2008-227.

Appendix G

POLITICS

Treasure Coast communities may be able to ban plastic bags



A Senate committee will hear a bill that allows coastal communities with a population of fewer than 100,000 to establish a pilot program to regulate or ban the use of disposable plastic bags.

By Isadora Rangel of TCPalm

Posted: Jan. 20, 2016

TALLAHASSEE — California wants to do it; Hawaii is doing it; but Florida still prohibits it.

A local government that wants to restrict the use of plastic bags is prohibited under Florida law from doing so, even though those bags can choke marine life, breed mosquitoes and clog flood control systems.

That could change under a bill that cleared a Senate committee Wednesday.

The legislation pushed by activists allows coastal cities with less than 100,000 residents to create a two-year pilot program to regulate the use of plastic bags. The cities could restrict or ban the bags.

Treasure Coast communities from Jupiter Island to Sebastian could qualify for the program, but no one has considered taking action, so the One Florida Foundation will be lobbying local officials to do so if the bill becomes law, foundation director Nyla Pipes said. The nonprofit environmental organization often finds plastic bags during cleanups of local waterways, such as Moores Creek in Fort Pierce, which flows into the Indian River Lagoon, Pipes said.

While it might be inconvenient not to have bags for your groceries, Pipes said Florida needs to go through a "paradigm change" as did progressive states such as California, where the legislature imposed a statewide ban in 2014. The ban is on hold pending a ballot referendum in November. All Hawaii counties prohibit stores from handing out plastic bags at checkout, although there's a loophole that allows reusable plastic bags.

The Florida Chamber of Commerce, the lead business lobbying organization, opposes SB 306 and its companion HB 143 because it would increase costs for businesses and consumers. Other pro-business critics also said if the Legislature wants to tackle the issue it should do so on a statewide basis instead of leaving it up to small communities because plastic bags can travel from one community to another.

Sen. Alan Hays, R-Umatilla, said he's against increased business regulations and was the only dissenting vote in the Environmental Preservation and Conservation Committee, which approved the bill

8-1 Wednesday. He also questioned whether the state should leave it up to businesses to stop using plastic bags.

Yet plastic bags still are cheaper for businesses, therefore regulations would be the only way to make a change, said Sen. Dwight Bullard, the Miami Democrat who sponsored the bill.

The idea for the legislation came after elementary students in Cutler Bay, a small municipality in Miami-Dade County, found several plastic bags during an environmental cleanup, Bullard said. When they asked the town to draft an ordinance, officials found out Florida law pre-empts local regulations. Bullard's bill lifts that pre-emption to allow the pilot program from January 2017 through July 2019. The bill also requires municipalities to submit a report on the impacts of the program.

Americans use approximately 100 billion plastic bags every year, each typically discarded after a single use, according to a Senate staff report. Production of the bags requires both petroleum and natural gas use and each bag can last more than 1,000 years. Wind can carry them from garbage trucks, the tops of landfills and trash receptacles, resulting in the littering of streets and waterways, where animals mistake them for food.

The Florida Legislature in 2008 attempted to address the issue by requiring the Department of Environmental Protection to conduct a study while also prohibiting local governments from adopting any rules until lawmakers adopted the recommendations of the study. The DEP finished the study in 2010 and came up with several options, ranging from more education to a ban. The Legislature didn't revisit the issue again.

The city of Stuart, which sits on the St. Lucie River, hasn't thought about regulating plastic bags, but City Manager Paul Nicoletti said

he's open to the idea.

"I'd like to think we are progressive enough that we would examine this," Nicoletti said.

Follow Isadora Rangel, Arek Sarkissian and Tampa news partner Jeff Schweers for updates on all the legislative action.

Tweets about from:IsadoraRangel2 OR from:ArekSarkissian OR from:jeffschweersTBO!/p>



About Isadora Rangel

Isadora covers politics, elections and the state Legislature. She graduated from Florida International University and has worked at Treasure Coast Newspapers since 2011. Isadora was born in Brazil and speaks Portuguese and Spanish fluently.

Facebook @IsadoraRangel2 isadora.rangel@tcpalm.c...

772-221-4186

Find this article at:

<http://archive.tcpalm.com/news/indian-river-lagoon/politics/treasure-coast-communities-may-be-able-to-ban-plastic-bags-29b2c71e-2842-4384-e053-0100007f7571-365990421.html>

☐ Check the box to include the list of links referenced in the article.

Appendix H

MEMORANDUM

Agenda Item No. 11(A)(18)

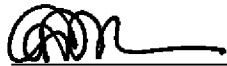
TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: February 2, 2016

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Resolution urging the Florida
Legislature to enact SB 306, HB
143, or similar legislation that
would authorize small coastal
municipalities to establish a pilot
program to regulate or ban
disposable plastic bags

The accompanying resolution was prepared and placed on the agenda at the request of Prime
Sponsor Commissioner Daniella Levine Cava.



Abigail Price-Williams
County Attorney

APW/lmp



MEMORANDUM

(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: February 2, 2016

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 11(A)(18)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Statement of social equity required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☒ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 11(A)(18)
2-2-16

RESOLUTION NO. _____

RESOLUTION URGING THE FLORIDA LEGISLATURE TO
ENACT SB 306, HB 143, OR SIMILAR LEGISLATION THAT
WOULD AUTHORIZE SMALL COASTAL MUNICIPALITIES
TO ESTABLISH A PILOT PROGRAM TO REGULATE OR
BAN DISPOSABLE PLASTIC BAGS

WHEREAS, according to the Environmental Protection Agency, approximately 100 billion disposable plastic bags are used in the United States every year; and

WHEREAS, disposable plastic bags contribute to litter and pollution, harm land and marine wildlife, clog storm drains, interfere with landfill operations, burden public works departments, and can adversely affect water quality; and

WHEREAS, according to the Florida Department of Environmental Protection, in one year a single reusable bag replaces between 56.8 and 315.15 disposable plastic bags; and

WHEREAS, Florida law, however, currently prohibits local governments from banning, regulating, or taxing disposable plastic bags; and

WHEREAS, identical Senate and House bills, SB 306 by Senator Dwight Bullard (D–Miami) and HB 143 by Representative David Richardson (D–Miami Beach), have been filed for consideration during the 2016 session of the Florida Legislature; and

WHEREAS, SB 306 and HB 143 would provide coastal municipalities with populations under 100,000 the authority to establish a short-term pilot program to regulate or ban disposable plastic bags; and

WHEREAS, by authorizing small coastal municipalities to establish short-term pilot programs regulating disposable plastic bags, these bills would enable such municipalities to determine how to most effectively address the environmental concerns caused by disposable plastic bags in their communities, and would also help illuminate which measures can be most effective in discouraging the use of disposable plastic bags and encouraging the use of reusable bags instead; and

WHEREAS, this Board would like to support SB 306, HB 143, or similar legislation that would authorize small coastal municipalities to establish a pilot program to regulate or ban disposable plastic bags,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board:

Section 1. Urges the Florida Legislature to enact SB 306, HB 143, or similar legislation that would authorize small coastal municipalities to establish a pilot program to regulate or ban disposable plastic bags.

Section 2. Directs the Clerk of the Board to transmit a certified copy of this resolution to the Governor, Senate President, House Speaker, Senator Dwight Bullard, Representative David Richardson, and the Chair and remaining Members of the Miami-Dade State Legislative Delegation.

Section 3. Directs the County's state lobbyists to advocate for the passage of the legislation set forth in Section 1 above, and authorizes and directs the Office of Intergovernmental Affairs to amend the 2016 State Legislative Package to include this item.

The Prime Sponsor of the foregoing resolution is Commissioner Daniella Levine Cava. It was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

Jean Monestime, Chairman	
Esteban L. Bovo, Jr., Vice Chairman	
Bruno A. Barreiro	Daniella Levine Cava
Jose "Pepe" Diaz	Audrey M. Edmonson
Sally A. Heyman	Barbara J. Jordan
Dennis C. Moss	Rebeca Sosa
Sen. Javier D. Souto	Xavier L. Suarez
Juan C. Zapata	

The Chairperson thereupon declared the resolution duly passed and adopted this 2nd day of February, 2016. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA

BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

MJM

Michael J. Mastrucci

MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

MEMORANDUM

TO: Mayor Philip Levine and Members of the City Commission

FROM: Commissioner Michael Grieco

DATE: October 22, 2014

SUBJECT: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, SUPPORTING THE STATE LEGISLATURE'S EFFORTS TO AMEND SECTION 403.7033, UNDER HOUSE BILL 1257 AND COMPANION SENATE BILL 830, WHICH AMENDMENTS WOULD PROVIDE FOR LOCAL REGULATION AND ENFORCEMENT OF PLASTIC BAGS UNDER THE STATE'S PROPOSED GUIDELINES; ALTERNATIVELY, SHOULD THE STATUTE NOT BE AMENDED, THE CITY COMMISSION REQUESTS THE REPEAL OF SECTION 403.7033, FLORIDA STATUTES, SO THAT LOCAL GOVERNMENTS ARE NO LONGER PREEMPTED FROM ENACTING APPROPRIATE LEGISLATION RELATING TO THE REGULATION OF PLASTIC BAGS.**

The City is extremely active and diligent in the efforts to preserve the beautiful environment that supports the tourism industry which is so vital to the economy of the City, Miami-Dade County and the State of Florida. As we are all aware, the use of plastic bags are detrimental to our community because they do not fully degrade in our oceans or land environment and they introduce unsafe chemicals into our environment. Further, plastic bags create the potential for death of (land) and marine animals through entanglement and ingestion.

Moreover, the expansive usage of single-use shopping bags and their typical disposal rates creates an impediment to the City's waste reduction and recycling goals while creating unsightly litter. The continued utilization of the single-use plastic bags are difficult to recycle and frequently contaminate material that is processed through the City's curbside recycling and composting programs. Reusable bags are considered to be the best option to reduce waste and litter, protect wildlife and conserve resources.

Based upon the foregoing, it is in the public interest for the City Commission to encourage and enable the location of a viable reusable bag manufacturing operation in the State of Florida, and the Florida Legislature to provide statewide deregulation of the proliferation of single-use shopping bags.

The Florida Legislature under "The Energy, Climate Change, and Economic Security Act of 2008", enacted House Bill 7135, creating Section 403.7033, Florida Statutes, which requires the Florida Department of Environmental Protection (DEP) to perform an analysis and submit a report to the Legislature by February 1, 2010 regarding the necessity and efficacy of both statewide and local regulation of bags used by consumers to carry products from retail establishments. The statute also provides that until such time that the Legislature adopts the

recommendations of DEP, no local or state government may enact any regulation or tax on the use of such retail bags. The DEP analysis determined a need for new or different regulations of bags used by customers to carry products from retail establishments and recommend the implementation of new standards requiring the prohibition of plastic carryout bags encourages the use of reusable bags is to the benefit of the State's environment.

This year House Bill 1257 was proposed in the state legislature, along with companion Senate Bill 830, which bills propose: an amendment to Section 403.7033; which would provide legislative findings; deleting obsolete provisions; create definitions; create statewide standards for reusable bags and recyclable paper bags for stores located within a county or municipality that adopts ordinances pursuant to the statute; would require affected stores to charge customers a fee for each recyclable paper bag provided; would prohibit affected stores from providing plastic carryout bags or other types of bags; would provide for the allocation of fees collected, reporting requirements for affected stores; and authorizing local governments to impose a penalty and create ordinances to regulate the use of carryout bags to adopt ordinances pursuant to the statute. Through the proposed bills, the Legislature has indicated a legislative belief that it is necessary and appropriate to adopt uniform statewide standards prohibiting the use of plastic carryout bags, which would authorize local governments to adopt these regulation by local ordinance. The bill is being amended and has not been enacted

I encourage the Mayor and City Commission to support me in the the effort to petition the legislature to amend Section 403.7033, under both House Bill 1257 and the companion Senate Bill 830; and support the enactment of the bills, and, alternatively, requests that Section 403.7033, Florida Statutes, be repealed, so that the City of Miami beach and other local governments can enact appropriate legislation relating to the regulation of plastic bags.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, SUPPORTING THE STATE LEGISLATURE'S EFFORTS TO AMEND SECTION 403.7033, UNDER HOUSE BILL 1257 AND COMPANION SENATE BILL 830, WHICH AMENDMENTS WOULD PROVIDE FOR LOCAL REGULATION AND ENFORCEMENT OF PLASTIC BAGS UNDER THE STATE'S PROPOSED GUIDELINES; ALTERNATIVELY, SHOULD THE STATUTE NOT BE AMENDED, THE CITY COMMISSION REQUESTS THE REPEAL OF SECTION 403.7033, FLORIDA STATUTES, SO THAT LOCAL GOVERNMENTS ARE NO LONGER PREEMPTED FROM ENACTING APPROPRIATE LEGISLATION RELATING TO THE REGULATION OF PLASTIC BAGS.

WHEREAS, the City Commission of the City of Miami Beach is diligent in its efforts to preserve the beautiful environment that supports the tourism industry which is so vital to the economy of the City, Miami-Dade County and the State of Florida; and

WHEREAS, plastic bags are detrimental because they do not fully degrade in our oceans or land environment and they introduce unsafe chemicals into our environment; and

WHEREAS, plastic bags create the potential for death of (land) and marine animals through entanglement and ingestion; and

WHEREAS, the expansive usage of single-use shopping bags and their typical disposal rates creates an impediment to the City's waste reduction and recycling goals while creating unsightly litter; and

WHEREAS, single-use plastic bags are difficult to recycle and frequently contaminate material that is processed through the City's curbside recycling and composting programs; and

WHEREAS, reusable bags are considered to be the best option to reduce waste and litter, protect wildlife and conserve resources; and

WHEREAS, Commission acknowledges that some businesses have taken affirmative steps to accomplish this goal and recognizes their proactive efforts; and

WHEREAS, it is in the public interest for the Commission to encourage and enable the location of a viable reusable bag manufacturing operation in the State of Florida; and

WHEREAS, it is in the public interest for the Florida Legislature to provide statewide deregulation of the proliferation of single-use shopping bags; and

WHEREAS, the Florida Legislature under “The Energy, Climate Change, and Economic Security Act of 2008”, enacted House Bill 7135, creating Section 403.7033, Florida Statutes; and

WHEREAS, Section 403.7033 requires the Florida Department of Environmental Protection (DEP) to perform an analysis and submit a report to the Legislature by February 1, 2010 regarding the necessity and efficacy of both statewide and local regulation of bags used by consumers to carry products from retail establishments; and

WHEREAS, the statute also provides that until such time that the Legislature adopts the recommendations of DEP, no local or state government may enact any regulation or tax on the use of such retail bags; and

WHEREAS, the DEP analysis determined a need for new or different regulations of bags used by customers to carry products from retail establishments and recommend the implementation of new standards requiring the prohibition of plastic carryout bags encourages the use of reusable bags is to the benefit of the State’s environment; and

WHEREAS, this year House Bill 1257 was proposed in the state legislature, along with companion Senate Bill 830, which bills propose: an amendment to Section 403.7033; which would provide legislative findings; deleting obsolete provisions; create definitions; create statewide standards for reusable bags and recyclable paper bags for stores located within a county or municipality that adopts ordinances pursuant to the statute; would require affected stores to charge customers a fee for each recyclable paper bag provided; would prohibit affected stores from providing plastic carryout bags or other types of bags; would provide for the allocation of fees collected, reporting requirements for affected stores; and authorizing local governments to impose a penalty and create ordinances to regulate the use of carryout bags to adopt ordinances pursuant to the statute; and

WHEREAS, through the proposed bills, the Legislature has indicated a legislative belief that it is necessary and appropriate to adopt uniform statewide standards prohibiting the use of plastic carryout bags, which would authorize local governments to adopt these regulation by local ordinance; and

WHEREAS, the bill is being amended and has not been enacted; and

WHEREAS, the City Commission supports the efforts to amend Section 403.7033, under House Bill 1257 and companion Senate Bill 830 and supports the enactment of the bills, and, alternatively, requests that Section 403.7033, Florida Statutes, be repealed, so that local government can enact appropriate legislation relating to the regulation of plastic bags.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission support the State Legislature's efforts to amend Section 403.7033, under House Bill 1257 and companion Senate Bill 830, which amendments would provide for local regulation and enforcement of plastic bags under the State's proposed guidelines; and, alternatively, should the legislation not be enacted, the City Commission requests that the State Legislature repeal Section 403.7033, Florida Statutes, so that local governments are no longer preempted from enacting appropriate legislation relating to the regulation of plastic bags.

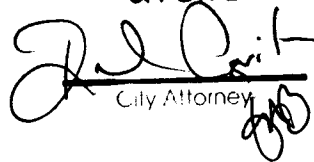
PASSED AND ADOPTED this _____ day of _____ 2014.

ATTEST:

Philip Levine, Mayor

Rafael Granado, City Clerk

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

10-6-14

Date

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: April 15, 2015

Division: County Commission

Bulk Item: Yes No X

Department: County Commission

Staff Contact /Phone #: Rhonda Haag, 453-8774

AGENDA ITEM WORDING: Approval of a Resolution supporting the initiatives by local municipalities in Florida to lessen the negative impact of single-use plastic bags on our environment.

ITEM BACKGROUND: The resolution supports current Florida Senate Bill 966 and House Bill 661, which, if passed, would allow certain municipalities to establish pilot programs for the regulation or ban of disposable plastic bags. The bills have been filed in this year's Florida legislative session - Senate Bill SB966 and companion House Bill HB661 that pertain to "Disposable Plastic Bags". Session ends May 1st. 2015.

These bills would grant local municipalities and counties the right to control and enact their own legislation on plastic bags so that they can run a pilot program, gather statistics and determine if the program is effective in plastic bag reduction. At the moment the State of Florida prohibits any local municipalities from charging or enacting any 'tax' on plastic bags.

More than 33,000 jobs in the Florida Keys are supported by ocean recreation and tourism, accounting for 58 percent of the local economy and \$2.3 billion in annual sales.
http://sanctuaries.noaa.gov/science/socioeconomic/pdfs/fk_final.pdf
http://sanctuaries.noaa.gov/science/socioeconomic/pdfs/fk_final.pdf

In 2000–2001, the artificial and natural reefs off Palm Beach, Broward, Miami-Dade and Monroe counties supported almost 28 million person-days of recreational diving, fishing and viewing activities. These activities generated about \$4.4 billion in local sales, almost \$2 billion in local income, and 70,400 full and part-time jobs. See: <http://coralreef.noaa.gov/aboutcorals/values/tourismrecreation/>

Overall, the State of Florida has a \$65 billion annual tourism industry that is linked to the state's natural resources. See <http://www.visitflorida.org/tools-resources/research/>.

Disposable plastic bags contribute to litter, clog storm drains, are a burden on public works departments, become marine debris, affect water quality, are a nuisance to storm-water treatment systems, create freshwater and ocean pollution and can cause lost revenue where communities have tourism-dependent economies – including the Florida Keys.

PREVIOUS RELEVANT BOCC ACTION: Not applicable.

CONTRACT/AGREEMENT: Not applicable.

There is no fiscal impact associated with the approval of this resolution. Investments in community sustainability are expected to provide long-term cost benefits to the region.

TOTAL COST: \$0 **INDIRECT COST:** ____

BUDGETED: Yes ____ No X

DIFFERENTIAL OF LOCAL PREFERENCE: N/A

COST TO COUNTY: \$0 **SOURCE OF FUNDS:** N/A

REVENUE PRODUCING: Yes ____ No X **AMOUNT PER MONTH** ____ **Year** ____

APPROVED BY: County Atty *WWC* OMB/Purchasing ____ Risk Management ____

DOCUMENTATION: Included X Not Required ____

DISPOSITION: _____

AGENDA ITEM # _____

Revised 7/09

RESOLUTION No. ____

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, SUPPORTING THE INITIATIVES BY LOCAL GOVERNMENTS IN FLORIDA TO LESSEN THE NEGATIVE IMPACT OF SINGLE-USE PLASTIC BAGS ON OUR ENVIRONMENT.

WHEREAS, Monroe County is diligent in its efforts to preserve the beautiful environment that supports the tourism industry which is so vital to the economy of Monroe County and the State of Florida; and

WHEREAS, plastic bags are detrimental because they do not fully degrade in our oceans or land environment and they introduce unsafe chemicals into our environment; and

WHEREAS, plastic bags create the potential for death of land and marine animals through entanglement and ingestion; and

WHEREAS, the expansive usage of single-use shopping bags and their typical disposal rates creates an impediment to the County's waste reduction and recycling goals while creating unsightly litter; and

WHEREAS, single-use plastic bags are difficult to recycle and frequently contaminate material that is processed through the County's curbside recycling and composting programs; and

WHEREAS, reusable bags are considered to be the best option to reduce waste and litter, protect wildlife and conserve resources; and

WHEREAS, the Board of County Commissioners for Monroe County acknowledges that some businesses have taken affirmative steps to accomplish this goal and recognizes their proactive efforts; and

WHEREAS, it is in the public interest for the Board of County Commissioners for Monroe County to encourage and enable the location of a viable reusable bag manufacturing operation in the State of Florida; and

WHEREAS, it is in the public interest for the Florida Legislature to provide statewide deregulation of the proliferation of single-use shopping bags; and

WHEREAS, if the State does not act to regulate the proliferation of single-use shopping bags the Board of County Commissioners for Monroe County would like to potentially enact regulations governing the use of plastic checkout bags;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA:

SECTION 1. Monroe County is committed to the long-term goal of reducing the harms of plastic pollution on our fragile environment and committed to ensuring a thriving, attractive and safe environment for current and future residents and tourists.

SECTION 2. Monroe County does hereby support initiatives to lessen the negative impact of single-use plastic bags specifically, and supports the promotion of reusable shopping bags as the best alternative to single-use plastic or single-use paper bags.

SECTION 3. Monroe County supports the State Legislature's action to allow local municipalities in the State of Florida to regulate their own local communities in an effort to alleviate the harms cause by single-use shopping bags; and, therefore, Monroe County opposes any statewide preemption on local efforts to determine the best course of action with regards to protection of the local environment and tourism economy.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a regular meeting of said board held on the 15th day of April, 2015.

Mayor Danny L. Kolhage, District 1 _____

Commissioner George Neugent, District 2 _____

Commissioner Heather Carruthers, District 3 _____

Commissioner David Rice, District 4 _____

Commissioner Sylvia Murphy, District 5 _____

(Seal)

Attest: Amy Heavilin, Clerk

BOARD OF COUNTY
COMMISSIONERS OF MONROE COUNTY,
FLORIDA

By: _____
Deputy Clerk

BY: _____
Mayor Danny L. Kolhage

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:

NATILEENE W. CASSEL
ASSISTANT COUNTY ATTORNEY
Date 3/30/2015

RESOLUTION NO. 2014-50

**A RESOLUTION OF THE VILLAGE OF PINECREST,
FLORIDA, SUPPORTING THE INITIATIVE BY LOCAL
MUNICIPALITIES IN FLORIDA TO LESSEN THE
NEGATIVE IMPACT OF SINGLE-USE PLASTIC BAGS
ON THE ENVIRONMENT; PROVIDING FOR AN
EFFECTIVE DATE.**

WHEREAS, the Village of Pinecrest is diligent in its efforts to preserve the beautiful environment that supports the tourism industry which is so vital to the economy of Florida; and

WHEREAS, plastic bags are detrimental because they do not fully degrade in the oceans or land environment and they introduce unsafe chemicals into the environment; and

WHEREAS, plastic bags create the potential for death of animals through entanglement and ingestion; and

WHEREAS, the expansive usage of single-use shopping bags and their typical disposal rates creates an impediment to the Village's waste reduction and recycling goals while creating unsightly litter; and

WHEREAS, single-use plastic bags are difficult to recycle and frequently contaminate material that is processed through curbside recycling and composting programs; and

WHEREAS, reusable bags are considered to be the best option to reduce waste and litter, protect wildlife and conserve resources; and

WHEREAS, the Village Council acknowledges that some businesses have taken affirmative steps to accomplish this goal and recognizes their proactive efforts; and

WHEREAS, it is in the public interest for the Village Council to encourage and enable the location of a viable reusable bag manufacturing operation in the State of Florida; and

WHEREAS, it is in the public interest for the Florida Legislature to provide statewide deregulation of the proliferation of single-use shopping bags; and

WHEREAS, if the State does not act to regulate the proliferation of single-use shopping bags, the Village Council would like to potentially enact regulations governing the use of plastic checkout bags;

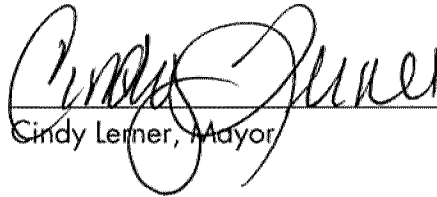
NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF PINECREST, FLORIDA:

Section 1. That the Village of Pinecrest is committed to the long-term goal of reducing the harms of plastic pollution on our fragile environment and committed to ensuring a thriving, attractive and safe environment for current and future residents and tourists and does hereby support initiatives to lessen the negative impact of single-use plastic bags specifically, and supports the promotion of reusable shopping bags as the best alternative to single-use plastic or single-use paper bags.

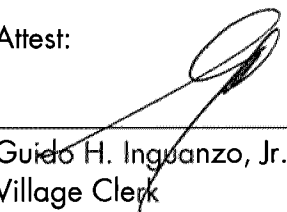
Section 2. That the Village of Pinecrest supports the State Legislature's action to allow local municipalities in the State of Florida to regulate their own local communities in an effort to alleviate the harms cause by single-use shopping bags; and, therefore, the Village Council opposes any statewide preemption on local efforts to determine the best course of action with regards to protection of the local environment and tourism economy.

Section 3. This resolution shall take effect immediately upon adoption.

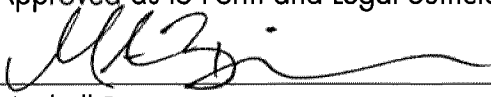
PASSED AND ADOPTED this 14th day of October, 2014.


Cindy Lerner, Mayor

Attest:


Guido H. Inguanzo, Jr., CMC
Village Clerk

Approved as to Form and Legal Sufficiency:


Mitchell Bierman
Village Attorney



Motion by: Councilmember McDonald
Second by: Vice Mayor Corradino

Vote: Councilmembers Cutler, McDonald, Ross, Vice Mayor Corradino, and Mayor Lerner voting Yes

Florida local governments that have enacted resolutions in support of legislation allowing them to regulate plastic bags:

Village of Key Biscayne
City of Melbourne Beach
City of Miami Beach
Village of Pinecrest
Saint Augustine Beach (Voluntary Bag Ban)
City of Satellite Beach
City of Surfside
City of Coconut Creek
City of Bonita Springs
Town of Davie
City of South Miami
Town of Cutler Bay
City of Key West
City of Fernandina Beach
City of Hallandale Beach
Town of Indiatlantic
City of Lake Worth
City of Layton
Village of Islamorada
City of Marathon
Leon County
Brevard County
Monroe County
City of West Palm Beach

Appendix J

The Florida Senate

2014 Florida Statutes

<u>Title XXVIII</u> NATURAL RESOURCES; CONSERVATION, RECLAMATION, AND USE	<u>Chapter 379</u> FISH AND WILDLIFE CONSERVATION <u>Entire Chapter</u>	SECTION 233 Release of balloons.
--	--	---

- 379.233 Release of balloons.—**
- (1) The Legislature finds that the release into the atmosphere of large numbers of balloons inflated with lighter-than-air gases poses a danger and nuisance to the environment, particularly to wildlife and marine animals.
- (2) It is unlawful for any person, firm, or corporation to intentionally release, organize the release, or intentionally cause to be released within a 24-hour period 10 or more balloons inflated with a gas that is lighter than air except for:
- (a) Balloons released by a person on behalf of a governmental agency or pursuant to a governmental contract for scientific or meteorological purposes;
 - (b) Hot air balloons that are recovered after launching;
 - (c) Balloons released indoors; or
 - (d) Balloons that are either biodegradable or photodegradable, as determined by rule of the Fish and Wildlife Conservation Commission, and which are closed by a hand-tied knot in the stem of the balloon without string, ribbon, or other attachments. In the event that any balloons are released pursuant to the exemption established in this paragraph, the party responsible for the release shall make available to any law enforcement officer evidence of the biodegradability or photodegradability of said balloons in the form of a certificate executed by the manufacturer. Failure to provide said evidence shall be prima facie evidence of a violation of this act.
- (3) Any person who violates subsection (2) is guilty of a noncriminal infraction, punishable by a fine of \$250.
- (4) Any person may petition the circuit court to enjoin the release of 10 or more balloons if that person is a citizen of the county in which the balloons are to be released.

History.—s. 1, ch. 89-113; s. 186, ch. 99-245; s. 53, ch. 2008-247.

Note.—Former s. 372.995.

Appendix K

ORDINANCE NO. _____

An Ordinance amending Chapter 13A of the Code of Ordinances of the City of South Miami, Florida, entitled “Balloon Regulations,” providing for the regulation of balloon usage and balloon releases in the City limits.

WHEREAS, there are two types of balloons in general use – latex and mylar; and

WHEREAS, although latex balloons are considered bio-degradable, it takes anywhere from 6 months to 4 years to decompose and they can wreak havoc before they do; and

WHEREAS, mylar balloons are far less friendly to the environment — they are made from metallicized polyester, which is dirty in both production and disposal; and

WHEREAS, all released balloons, whether they are released intentionally or not, return to Earth as litter and contribute to marine debris; and

WHEREAS, balloons return to the land and sea where they can be mistaken for food and eaten by animals. The resulting debris from released balloons bears a strong resemblance to jellyfish or squid, which all species of sea turtles have been documented to eat; and

WHEREAS, sea turtles, dolphins, whales, fish and birds have been reported with balloons in their stomachs which can lead to stoppage of the gut and eventual starvation; and

WHEREAS, the ribbons and strings attached to balloons can lead to entanglement, causing death; and

WHEREAS, Florida’s East Coast is home to some of the most densely utilized sea turtle nesting beaches in the country and the City Commission wishes to protect them; and

WHEREAS, the City Commission desires to adopt this ordinance to help prevent harm caused by the release of lighter-than-air balloons.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF SOUTH MIAMI, FLORIDA:

Section 1. Chapter 13A, shall be amended to include a new Section 13A-22 of the City of South Miami Code of Ordinances which shall read as follows:

Sec. 13A-22. – Release of balloons prohibited.

(a) It shall be unlawful for any person to violate the terms of this section:

(1) Balloons inflated with lighter-than-air gases shall not be released in the City limits.

(2) Any balloons filled with gases that are lighter than air, such as helium, shall, immediately after inflation, be tied securely to an object heavier than the balloon (e.g., a fishing weight, heavy washer, rock, stick, etc.) and a paper tag shall be attached to the string/ribbon attached to the balloon that states: “Releasing this

balloon will harm the environment/ Soltando este globo al aire dañará la naturaleza.”

(3) Any event occurring in the City that distributes or sells light-than-air balloons shall display a clearly legible (bold print that appears equal to or greater than 20 point font) copy of this section of the City Code of Ordinances in a prominent location where it can be seen by all persons who receive such balloons.

(b) This section shall not apply to balloons released by a person on behalf of a governmental agency, or institution of post-secondary education for meteorological purposes.

Section 2. Codification. The provisions of this ordinance shall become and be made part of the Land Development Code of the City of South Miami as amended.

Section 3. Severability. If any section, clause, sentence, or phrase of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, this holding shall not affect the validity of the remaining portions of this ordinance or the Guidelines adopted hereunder.

Section 4. Ordinances in Conflict. All ordinances or parts of ordinances and all sections and parts of sections of ordinances in direct conflict herewith are hereby repealed.

Section 5. Effective Date. This ordinance shall become effective upon enactment.

PASSED AND ENACTED this ____ day of _____, 20 ____.

ATTEST:

APPROVED:

CITY CLERK

MAYOR

1st Reading

2nd Reading

READ AND APPROVED AS TO FORM:
LANGUAGE, LEGALITY AND
EXECUTION THEREOF

COMMISSION VOTE:
Mayor Stoddard:
Vice Mayor Welsh:
Commissioner Edmond:
Commissioner Harris:
Commissioner Liebman:

CITY ATTORNEY



CITY OF SOUTH MIAMI COURTESY NOTICE

NOTICE IS HEREBY given that the City Commission of the City of South Miami, Florida will conduct Public Hearing(s) at its regular City Commission meeting scheduled for Tuesday, June 21, 2016, beginning at 7:00 p.m., in the City Commission Chambers, 6130 Sunset Drive, to consider the following item(s):

A Resolution relating to an application for waiver of plat for the subdivision of property located at 6050 SW 81 Street.

A Resolution approving special exceptions waiving strict compliance with the lot coverage, parking, height, and setback provisions of the Hometown District Overlay Ordinance for a proposed addition located at 5875 Sunset Drive.

A Resolution approving and authorizing the City Manager to execute a three (3) year (October 1, 2015 – September 30, 2018) agreement between the Miami-Dade County Police Benevolent Association Collective Bargaining Union ("Lieutenants & Captains") and the City of South Miami.

A Resolution authorizing the City Manager to enter into a three-year agreement with AT & T to replace existing network connections at Parks and Recreation, Public Works and City Hall.

(An Ordinance amending Chapter 13A, Section 13A-22 of the City of South Miami Code of Ordinances, entitled "Balloon Regulations," providing for the regulation of balloon usage and balloon releases in the City limits.)

An Ordinance amending the Land Development Code, Article III, "Zoning Regulations," Section 20-3.6, "Supplemental Regulations," to amend and clarify the height limitations on fences, walls, hedges and similar features in residential zoning districts.

An Ordinance amending Section 20-5.4, "Complete applications required," Section 20-5.5, "Applications requiring public hearings," and Section 20-5.6, "Applications in general," of the South Miami Land Development Code to establish requirements for a transportation impact analysis, and other changes including correction of names, clarifying notice requirements, and establishing authority to defer an item.

ALL interested parties are invited to attend and will be heard.

For further information, please contact the City Clerk's Office at: 305-663-6340.

Maria M. Menendez, CMC
City Clerk

Pursuant to Florida Statutes 286.0105, the City hereby advises the public that if a person decides to appeal any decision made by this Board, Agency or Commission with respect to any matter considered at its meeting or hearing, he or she will need a record of the proceedings, and that for such purpose, affected person 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.

MIAMI DAILY BUSINESS REVIEW

Published Daily except Saturday, Sunday and
Legal Holidays
Miami, Miami-Dade County, Florida

STATE OF FLORIDA
COUNTY OF MIAMI-DADE:

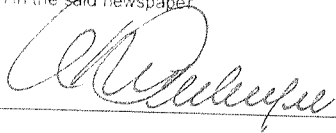
Before the undersigned authority personally appeared OCTELMA V. FERBEYRE, who on oath says that he or she is the VICE PRESIDENT, Legal Notices of the Miami Daily Business Review f/k/a Miami Review, a daily (except Saturday, Sunday and Legal Holidays) newspaper, published at Miami in Miami-Dade County, Florida, that the attached copy of advertisement being a Legal Advertisement of Notice in the matter of

NOTICE OF PUBLIC HEARING
CITY OF SOUTH MIAMI - JUNE 21, 2016

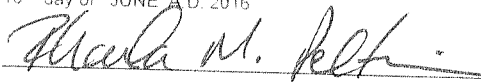
in the XXXX Court,
was published in said newspaper in the issues of

06/10/2016

Affiant further says that the said Miami Daily Business Review is a newspaper published at Miami, in said Miami-Dade County, Florida and that the said newspaper has heretofore been continuously published in said Miami-Dade County, Florida each day (except Saturday, Sunday and Legal Holidays) and has been entered as second class mail matter at the post office in Miami in said Miami-Dade County, Florida for a period of one year next preceding the first publication of the attached copy of advertisement, and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

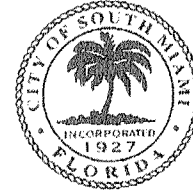
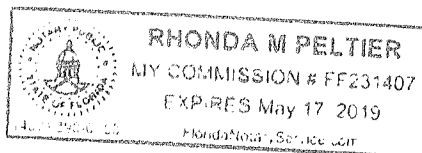


Sworn to and subscribed before me this
10 day of JUNE A.D. 2016



(SEAL)

OCTELMA V. FERBEYRE personally known to me



CITY OF SOUTH MIAMI NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY given that the City Commission of the City of South Miami, Florida will conduct Public Hearing(s) at its regular City Commission meeting scheduled for Tuesday, June 21, 2016, beginning at 7:00 p.m., in the City Commission Chambers, 6130 Sunset Drive, to consider the following item(s):

A Resolution relating to an application for waiver of plat for the subdivision of property located at 6050 SW 81 Street.

A Resolution approving special exceptions waiving strict compliance with the lot coverage, parking, height, and setback provisions of the Hometown District Overlay Ordinance for a proposed addition located at 5875 Sunset Drive.

A Resolution approving and authorizing the City Manager to execute a three (3) year (October 1, 2015 - September 30, 2018) agreement between the Miami-Dade County Police Benevolent Association Collective Bargaining Union ("Lieutenants & Captains") and the City of South Miami.

A Resolution authorizing the City Manager to enter into a three-year agreement with AT & T to replace existing network connections at Parks and Recreation, Public Works and City Hall.

An Ordinance amending Chapter 13A, Section 13A-22 of the City of South Miami Code of Ordinances, entitled "Balloon Regulations," providing for the regulation of balloon usage and balloon releases in the City limits.

An Ordinance amending the Land Development Code, Article III, "Zoning Regulations," Section 20-3.6, "Supplemental Regulations," to amend and clarify the height limitations on fences, walls, hedges and similar features in residential zoning districts.

An Ordinance amending Section 20-5.4, "Complete applications required," Section 20-5.5, "Applications requiring public hearings," and Section 20-5.6, "Applications in general," of the South Miami Land Development Code to establish requirements for a transportation impact analysis, and other changes including correction of names, clarifying notice requirements, and establishing authority to defer an item.

ALL interested parties are invited to attend and will be heard.

For further information, please contact the City Clerk's Office at: 305-663-6340.

Maria M. Menendez, CMC
City Clerk

Pursuant to Florida Statutes 286.0105, the City hereby advises the public that if a person decides to appeal any decision made by this Board, Agency or Commission with respect to any matter considered at its meeting or hearing, he or she will need a record of the proceedings, and that for such purpose, affected person 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.

6/10

16-96/0000122622M

TOWN OF PALM BEACH

Town Council Meeting on: January 10, 2017

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 04-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing and Approving a Five Year Purchase Contract to Taser International for 70 Taser 60 Models with Accessories and Equipment Per Quotation No. Q-89649-1; and Authorizing and Approving a Purchase Order in the Amount of \$21,832.62 Representing the First Year of Payment to Include Shipping and Handling; and Authorizing and Approving Four Subsequent Payments to Taser International in the Amount of \$26,040.00 each for a Grand Total of \$125, 992.62; and Approving an Overall Budget of \$130,000; Subject to Appropriation of Funds in Fiscal Years 2018 - 2021.

Presenter

Kirk W. Blouin, Director of Public Safety

ATTACHMENTS:

- ▣ **Memorandum from Kirk W. Blouin, Director of Public Safety dated April 2, 2015**
- ▣ **Resolution No. 04-2017**
- ▣ **Exhibit A - Quote**
- ▣ **Exhibit B - Terms and Conditions Agreement**

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 10, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: Kirk W. Blouin, Public Safety Director

Re: Approve 5 Year Purchase Agreement to Taser International
Resolution No. 04-2017

Date: December 29, 2016

STAFF RECOMMENDATION

Staff recommends Town Council authorize the Town Manager to execute a 5-year purchase agreement with Taser International for the purchase of 70 Taser Model 60 conducted energy weapons and approve the following:

- A purchase order to Taser International representing the 1st year payment in the amount of \$21,832.62 (includes 1st year payment with discounts and shipping and handling).
- Approve purchase orders for payments 2-5 in subsequent Fiscal Years 2018-2021, subject to appropriations of funds during each fiscal year's budget process and;
- Establish an overall 5 year budget of \$130,000 for the initial purchase (excluding future purchases of cartridges, batteries, and other related accessories that may be required outside of the quote/agreement).

GENERAL INFORMATION

Taser International is the sole source provider for Taser conducted energy weapons. Taser has introduced a new pricing program in which large capital expenditures for CEWs are distributed over 5 years, (the same length of the extended warranty on the Taser 60 X26P). This allows the department to replace our entire Taser inventory with warranty and maintain a fixed payment over 5 years.

The department has a current inventory of 70 X26 Tasers that are 6-8 years old, out of warranty and whose parts are no longer manufactured by Taser.

Approve 5 Year Purchase Agreement to Taser International

Resolution No. 04-2017

Page 2

By participating in the payment program, the department achieved a total savings of \$12,804.70. The majority of the savings is represented by a discount of \$7,000 for the trade-in value of the current 70 Tasers requiring upgrade. Additional savings of \$1,604.70 comes from the spare unit, battery, and download kits that are included in the plan. Also by going with the payment plan, the cost of each unit (70) is rounded down by \$12 per unit per year (\$4,200) by Taser International.

FUNDING/FISCAL IMPACT

During the FY2017 budget process, funds were allocated in the Police Department's General Fund Budget to cover the 1st year payment of \$21,832.62. The Police Department will include funding request in future year's budget processes of \$ \$26,040.00 for payments 2-5.

PURCHASING REVIEW

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

TOWN ATTORNEY REVIEW

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

KWB/lsg

Attachments

cc: Jane Struder, Director of Finance
Adis Pedraza, Purchasing Manager
John C. Randolph, Town Attorney

RESOLUTION NO. 04 -2017

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING AND APPROVING A FIVE YEAR PURCHASE CONTRACT TO TASER INTERNATIONAL FOR 70 TASER 60 MODELS WITH ACCESSORIES AND EQUIPMENT PER QUOTATION NO. Q-89649-1; AND AUTHORIZING AND APPROVING A PURCHASE ORDER IN THE AMOUNT OF \$21,832.62 REPRESENTING THE FIRST YEAR PAYMENT TO INCLUDE SHIPPING AND HANDLING; AND AUTHORIZING AND APPROVING FOUR SUBSEQUENT PAYMENTS TO TASER INTERNATIONAL IN THE AMOUNT OF \$26,040.00 EACH FOR A GRAND TOTAL OF \$125,992.62; AND APPROVING AN OVERALL BUDGET OF \$130,000; SUBJECT TO APPROPRIATION OF FUNDS IN FISCAL YEARS 2018 - 2021.

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 approves and hereby authorizes the Town Manager to execute any and all documents necessary to effectuate the following:

a. Five Year Purchase Agreement with Taser International for the purchase of 70 Taser 60 models for a total of \$125,992.62.

b. A purchase order for FY2017 to Taser International in the amount of \$21,832.62 presenting the 1st year payment and;

c. Purchase orders for subsequent years (FY2018–FY2021) in the amount of \$26,040.00 each; subject to the appropriation of funds by Town Council during individual fiscal year budget processes.

Section 2. Town Council authorizes and approves an overall budget of \$130,000, subject to appropriation of funds.

Section 3. Taser International Quote No. Q-89649-1 (Exhibit A) and the Terms and Conditions Agreement (Exhibit B) are attached hereto and incorporated as part of this resolution.

Section 5. This Resolution shall become effective immediately upon passage.

PASSED AND ADOPTED IN A REGULAR, ADJOURNED SESSION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH THIS 10TH DAY OF JANUARY, 2017.

Gail L. Coniglio, Mayor

Michael J. Pucillo, Town Council President

Richard M. Kleid, Council President Pro Tem

Bobbie Lindsay, Town Council Member

ATTEST:

Danielle H. Moore, Town Council Member

Susan A. Owens, MMC, Town Clerk

Margaret Zeidman, Town Council Member

TASER International*Protect Life. Protect Truth.*

17800 N 85th St.
 Scottsdale, Arizona 85255
 United States
 Phone: (800) 978-2737
 Fax: (888) 708-8634

William Rothrock

(561) 838-5454
 (561) 835-4600
 wrothrock@palmbeachpolice.com

**Quotation****Quote:** Q-89649-1**Date:** 11/29/2016 1:32 PM**Quote Expiration:** 12/16/2016**Contract Start Date*:** 12/16/2016**Contract Term:** 5 years**AX Account Number:**

114679

Bill To:

Town of Palm Beach
 ACCOUNTS PAYABLE
 PO BOX 2029
 PALM BEACH, FL 33480
 US

Ship To:

William Rothrock
 Palm Beach Police Dept. - FL
 345 S. COUNTY ROAD
 PALM BEACH, FL 33480
 US

SALESPERSON	PHONE	EMAIL	DELIVERY METHOD	PAYMENT METHOD
Kelsey Donohue	(480) 905-2074	kelsey@taser.com	Fedex - Ground	Net 30

*Note this will vary based on the shipment date of the product.

Hardware/T60P Year 1/Net30

QTY	ITEM #	DESCRIPTION	UNIT PRICE	TOTAL BEFORE DISCOUNT	DISCOUNT (\$)	NET TOTAL
70	85198	TASER 60 YEAR 1 PAYMENT: X26P PREMIUM	USD 372.00	USD 26,040.00	USD 7,000.00	USD 19,040.00
70	11002	HANDLE, BLACK, CLASS III, X26P	USD 0.00	USD 0.00	USD 0.00	USD 0.00
65	11501	HOLSTER, BLACKHAWK, RIGHT, X26P	USD 0.00	USD 0.00	USD 0.00	USD 0.00
5	11504	HOLSTER, BLACKHAWK, LEFT, X26P	USD 0.00	USD 0.00	USD 0.00	USD 0.00
140	22012	TPPM, BATTERY PACK, TACTICAL, PINKY EXTENDER, X2/X26P	USD 0.00	USD 0.00	USD 0.00	USD 0.00
1	85174	TASER 60 X26P	USD 0.00	USD 0.00	USD 0.00	USD 0.00
1	11002	HANDLE, BLACK, CLASS III, X26P	USD 931.45	USD 931.45	USD 931.45	USD 0.00
1	22012	TPPM, BATTERY PACK, TACTICAL, PINKY EXTENDER, X2/X26P	USD 56.41	USD 56.41	USD 56.41	USD 0.00
7,000	44205	Cartridge - Simulation	USD 0.00	USD 0.00	USD 0.00	USD 0.00
7,000	44203	CARTRIDGE - 25' HYBRID	USD 0.00	USD 0.00	USD 0.00	USD 0.00
2	22013	KIT, DATAPORT DOWNLOAD, USB, X2/X26P	USD 170.52	USD 341.04	USD 341.04	USD 0.00

QTY	ITEM #	DESCRIPTION	UNIT PRICE	TOTAL BEFORE DISCOUNT	DISCOUNT (\$)	NET TOTAL
70	44966	CARTRIDGE HOLDER, X26	USD 26.60	USD 1,862.00	USD 0.00	USD 1,862.00
10	80004	TARGET, CONDUCTIVE, 2 PART, TOP AND BOTTOM	USD 27.58	USD 275.80	USD 275.80	USD 0.00
Hardware/T60P Year 1/Net30 Total Before Discounts:						USD 29,506.70
Hardware/T60P Year 1/Net30 Discount:						USD 8,604.70
Hardware/T60P Year 1/Net30 Net Amount Due:						USD 20,902.00

T60P Year 2- due 2017

QTY	ITEM #	DESCRIPTION	UNIT PRICE	TOTAL BEFORE DISCOUNT	DISCOUNT (\$)	NET TOTAL
70	85199	TASER 60 YEAR 2 PAYMENT: X26P PREMIUM	USD 372.00	USD 26,040.00	USD 0.00	USD 26,040.00
T60P Year 2- due 2017 Total Before Discounts:						USD 26,040.00
T60P Year 2- due 2017 Net Amount Due:						USD 26,040.00

T60P Year 3- due 2018

QTY	ITEM #	DESCRIPTION	UNIT PRICE	TOTAL BEFORE DISCOUNT	DISCOUNT (\$)	NET TOTAL
70	85200	TASER 60 YEAR 3 PAYMENT: X26P PREMIUM	USD 372.00	USD 26,040.00	USD 0.00	USD 26,040.00
T60P Year 3- due 2018 Total Before Discounts:						USD 26,040.00
T60P Year 3- due 2018 Net Amount Due:						USD 26,040.00

T60P Year 4- due 2019

QTY	ITEM #	DESCRIPTION	UNIT PRICE	TOTAL BEFORE DISCOUNT	DISCOUNT (\$)	NET TOTAL
70	85216	TASER 60 YEAR 4 PAYMENT: X26P PREMIUM	USD 372.00	USD 26,040.00	USD 0.00	USD 26,040.00
T60P Year 4- due 2019 Total Before Discounts:						USD 26,040.00
T60P Year 4- due 2019 Net Amount Due:						USD 26,040.00

T60P Year 5- due 2020

QTY	ITEM #	DESCRIPTION	UNIT PRICE	TOTAL BEFORE DISCOUNT	DISCOUNT (\$)	NET TOTAL
70	85217	TASER 60 YEAR 5 PAYMENT: X26P PREMIUM	USD 372.00	USD 26,040.00	USD 0.00	USD 26,040.00
T60P Year 5- due 2020 Total Before Discounts:						USD 26,040.00
T60P Year 5- due 2020 Net Amount Due:						USD 26,040.00

Subtotal	USD 125,062.00
Estimated Shipping & Handling Cost	USD 930.62
Grand Total	USD 125,992.62

TASER 60 Sales Terms and Conditions

This quote contains a purchase under the TASER 60 Plan. If your purchase only includes the TASER 60 Plan, CEWs, and CEW accessories, then this purchase is solely governed by the TASER 60 Terms and Conditions posted at: <http://www.taser.com/legal>, and the terms and conditions of TASER's Master Services and Purchasing Agreement do not apply to this order. You represent that you are lawfully able to enter into contracts and if you are entering into this agreement for an entity, such as the company, municipality, or government agency you work for, you represent to TASER that you have legal authority to bind that entity. If you do not have this authority, do not sign this Quote.

**TASER International, Inc.'s Sales Terms and Conditions
for Direct Sales to End User Purchasers**

By signing this Quote, you are entering into a contract and you certify that you have read and agree to the provisions set forth in this Quote and TASER's Master Services and Purchasing Agreement posted at <http://www.taser.com/legal>. You represent that you are lawfully able to enter into contracts and if you are entering into this agreement for an entity, such as the company, municipality, or government agency you work for, you represent to TASER that you have legal authority to bind that entity. If you do not have this authority, do not sign this Quote.

Signature: _____	Date: _____
Name (Print): _____	Title: _____
PO# (if needed): _____	

Quote: Q-89649-1

Please sign and email to Kelsey Donohue at kelsey@taser.com or fax to (888) 708-8634

THANK YOU FOR YOUR BUSINESS!

‘Protect Life’ and © are trademarks of TASER International, Inc., and TASER® is a registered trademark of TASER International, Inc., registered in the U.S.
© 2013 TASER International, Inc. All rights reserved.



Certificate of Destruction

Agency Name:			
Quote/PO Number:			
Product/ Quantity to be destroyed:	M26:	X26:	Other:

Customer certifies that all products for which Customer receives a trade-up discount will be removed from service to be destroyed and rendered permanently nonfunctional. Destruction of units should be performed according to Customer's policy. Products traded-in may not be resold or redistributed. TASER is not responsible for Product warranty or liability related to traded-in products, reserves the right to invoice Customer for the discounted amount for any device not destroyed, and reserves the right to require verification that destruction has been performed.

Form completed by:

Signature (Digital is acceptable or scan)

Printed name, title

Date

Return the signed form to your sales representative along with your purchase order/quote.

Protect Life' and the 'Bolt within Circle' logo are trademarks of TASER International, Inc., and TASER is a registered trademark of TASER International, Inc., registered in the U.S. All rights reserved. Copyright 2014, TASER International, Inc.

Exhibit B

These TASER 60 Terms and Conditions (**Agreement**) apply to your purchase under the TASER 60 Plan. TASER 60 provides CEW hardware extended warranty coverage, Spare CEW Products, and CEW accessories. TASER 60 only applies to the TASER CEW Product and accessories listed in the Quote.

TASER 60 Term. TASER 60 Term start date is based upon the shipment date of the hardware covered under TASER 60. If shipment of the hardware occurred in the first half of the month, then the Term starts on the 1st of the following month. If shipment of the hardware occurred in the second half of the month, then the Term starts on the 15th of the following month. The TASER 60 Term will end 5 years after the start date (**Term**).

Payment Terms. Invoices are due to be paid within 30 days of the date of invoice. Payment obligations are non-cancelable and fees paid are non-refundable and all amounts payable will be made without setoff, deduction, or withholding.

Taxes. Unless the Agency provides a valid and correct tax exemption certificate applicable to the purchase and ship-to location, the Agency is responsible for sales and other taxes associated with the order.

Shipping; Title; Risk of Loss; Rejection. TASER reserves the right to make partial shipments and products may ship from multiple locations. All shipments are FOB: Destination. The Agency is responsible for all freight charges. Any loss or damage that occurs during shipment is the Agency's responsibility. Shipping dates are estimates only.

Returns. All sales are final and no refunds or exchanges are allowed, except for warranty returns or as provided by state or federal law.

Hardware Limited Warranty. TASER warrants that its law enforcement hardware products are free from defects in workmanship and materials for a period of ONE (1) YEAR from the date of receipt. Extended warranties run from the date of purchase of the extended warranty through the balance of the 1-year limited warranty term plus the term of the extended warranty measured after the expiration of the 1-year limited warranty. CEW cartridges and Smart cartridges that are expended are deemed to have operated properly. TASER-Manufactured Accessories are covered under a limited 90-DAY warranty from the date of receipt. Non- TASER manufactured accessories are covered under the manufacturer's warranty. If TASER determines that a valid warranty claim is received within the warranty period, TASER agrees to repair or replace the Product. TASER's sole responsibility under this warranty is to either repair or replace with the same or like Product, at TASER's option.

Warranty Limitations.

The warranties do not apply and TASER will not be responsible for any loss, damage, or other liabilities arising from: (a) damage from failure to follow instructions relating to the Product's use; (b) damage caused by use with non-TASER products or from the use of cartridges, batteries or other parts, components or accessories that are not manufactured or recommended by TASER; (c) damage caused by abuse, misuse, intentional or deliberate damage to the product, or force majeure; (d) damage to a Product or part that has been repaired or modified by persons other than TASER authorized personnel or without the written permission of TASER; or (e) if any TASER serial number has been removed or defaced.

To the extent permitted by law, the warranties and remedies set forth above are exclusive and TASER disclaims all other warranties, remedies, and conditions, whether oral or written, statutory, or implied, as permitted by applicable law. If statutory or implied warranties cannot be

Exhibit B

lawfully disclaimed, then all such warranties are limited to the duration of the express warranty described above and limited by the other provisions contained in this Agreement.

TASER's cumulative liability to any Party for any loss or damage resulting from any claims, demands, or actions arising out of or relating to any TASER product will not exceed the purchase price paid to TASER for the product or if for services, the amount paid for such services over the prior 12 months preceding the claim. In no event will either Party be liable for any direct, special, indirect, incidental, exemplary, punitive or consequential damages, however caused, whether for breach of warranty, breach of contract, negligence, strict liability, tort or under any other legal theory.

Warranty Returns. If a valid warranty claim is received by TASER within the warranty period, TASER agrees to repair or replace the Product which TASER determines in its sole discretion to be defective under normal use, as defined in the Product instructions. TASER's sole responsibility under this warranty is to either repair or replace with the same or like Product, at TASER's option. For warranty return and repair procedures, including troubleshooting guides, please go to TASER's website www.taser.com/support.

A replacement product will be new or like new and have the remaining warranty period of the original product or 90 days from the date of replacement or repair, whichever period is longer. Any replacement item becomes Purchaser's property and the replaced item becomes TASER's property.

TASER 60 Warranty Coverage. TASER 60 includes extended warranty coverage for TASER manufactured products as described in the Hardware Limited Warranty. TASER 60 warranty coverage starts at the beginning of the Term and continues as long as the Agency continues to pay the required annual fees for TASER 60 during the Term. The Agency may not have both an optional extended warranty and TASER 60 on the TASER CEW product.

Spare Product. For orders of more than 30 units, TASER will provide a predetermined number of Spare Product for the TASER CEW hardware listed in the Quote ("Spare Products") to keep at the Agency location to replace broken or non-functioning units in order to improve the availability of the units to officers in the field. The Agency must return to TASER, through TASER's RMA process, any broken or non-functioning units for which a Spare Product is utilized, and TASER will repair or replace the non-functioning unit with a replacement product. TASER warrants it will repair or replace the unit which fails to function for any reason not excluded by the warranty coverage, during the Term with the same product or a like product, at TASER's sole option. Within 30 days of the end of the Term, the Agency must return to TASER all Spare Products. The Agency will be invoiced for and are obligated to pay to TASER the MSRP then in effect for all Spare Products not returned to TASER.

Product Warnings. See our website at <https://www.taser.com/legal> for the most current product warnings.

Design Changes. TASER reserves the right to make changes in the design of any of TASER's products and services without incurring any obligation to notify the Agency or to make the same change to products and services previously purchased.

TASER 60 Termination. If an invoice for TASER 60 is more than 30 days past due, then TASER may terminate TASER 60. TASER will provide notification that TASER 60 coverage is terminated.

The Agency is obligated to pay the fees under this Agreement as may lawfully be made from funds budgeted and appropriated for that purpose during the then current fiscal year. In the event that sufficient funds will not be appropriated or are not otherwise legally available to pay the fees

Exhibit B

required under this Agreement, this Agreement may be terminated by the Agency. The Agency agrees to deliver notice of termination under this Section at least 90 days prior to the end of the then current fiscal year.

Once TASER 60 coverage is terminated for any reason, then:

1. TASER 60 coverage will terminate as of the date of termination and no refunds will be given.
2. The Agency will be invoiced and obligated to pay for the remainder of the MSRP for TASER 60 Products received before the termination date. In the case of termination for non-appropriations, TASER will not invoice the Agency if the Agency returns the CEW, battery, holster, and unused cartridges to TASER within 30 days of the date of termination.
3. The Agency will be invoiced for and are obligated to pay to TASER the MSRP then in effect for all Spare Products provided under TASER 60. If the Spare Products are returned within 30 days of the Spare Product invoice date, credit will be issued and applied against the Spare Product invoice.
4. The Agency will be responsible for payment of any missed payments due to the termination before being allowed to purchase any future TASER 60 plan.

Excusable Delays. TASER will use commercially reasonable efforts to deliver all products and services ordered as soon as reasonably practicable. In the event of interruption of any delivery due to causes beyond TASER's reasonable control TASER has the right to delay or terminate the delivery with reasonable notice.

Proprietary Information. The Agency agrees that TASER has and claims various proprietary rights in the hardware, firmware, software, and the integration of ancillary materials, knowledge, and designs that constitute TASER products and services, and that the Agency will not directly or indirectly cause any proprietary rights to be violated.

Import and Export Compliance. In connection with this Agreement, each Party will comply with all applicable import, re-import, export, and re-export control laws and regulations.

Assignment. The Agency may not assign or otherwise transfer this Agreement without the prior written approval of TASER.

Severability. This Agreement is contractual and not a mere recital. If any portion of this Agreement is held to be invalid or unenforceable, the remaining portions of this Agreement will remain in full force and effect.

Governing Law; Venue. The laws of the state where the Agency is physically located, without reference to conflict of law rules, govern this Agreement and any dispute of any sort that might arise between the Parties. The United Nations Convention for the International Sale of Goods does not apply to this Agreement.

Entire Agreement. This Agreement and the quote provided by TASER, represents the entire agreement between the Parties. This Agreement supersedes all prior or contemporaneous representations, understandings, agreements, or communications between the Parties, whether written or verbal, regarding the subject matter of this Agreement. No modification or amendment of any portion of this Agreement will be effective unless in writing and signed by the Parties to this Agreement.

TASER and © are trademarks of TASER International, Inc., some of which are registered in the US and other countries. For more information, visit www.taser.com/legal. All rights reserved. © 2016 TASER International, Inc.

TOWN OF PALM BEACH

Town Council Meeting on: January 10, 2017

Section of Agenda

Consent - Other

Agenda Title

Approval of Selection Committee Recommendation for RFP No. 2016-48,
Investment Consultant for the OPEB Trust.

Presenter

Jane Struder, Director of Finance

ATTACHMENTS:

- ▣ **Memorandum Dated December 28, 2016, from Jane Struder, Director of Finance**
- ▣ **Ranking Sheet**

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 10, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: Jane Struder, Director of Finance

Re: Approval of the Selection Committee's Recommendation for RFP No. 2016-48,
Investment Consulting or Investment Management Services for the Town of Palm Beach
OPEB Trust, to The Bogdahn Group.

Date: December 28, 2016

STAFF RECOMMENDATION

Staff recommends that the Town Council (1) approve the recommendation of the Selection Committee's ranking of firms responding the Town's Request for Proposals (RFP), for investment consulting or investment management services for the Town of Palm Beach OPEB Trust with the Bogdahn Group being the highest ranked proposer, and (2) authorize staff to enter into negotiations with the first- ranked firm.

GENERAL INFORMATION

The Investment Advisory Committee authorized the issuance of an RFP for investment consulting services for the management of the OPEB trust funds. Currently, the Town's OPEB trust funds are overseen by Prime Buchholz, the current consultant for the Investment Advisory Committee.

A Selection Committee, made up of the Investment Advisory Committee members, reviewed the nine (9) proposals received in response to the RFP and recommended the top four firms to be interviewed by the Investment Advisory Committee. The Investment Advisory Committee conducted interviews on December 14, 2016, and they ranked The Bogdhan Group as the first-ranked firm. The results and rankings of the Selection Committee are attached.

Negotiations with this firm will include fees, services and term of the agreement. If we are unable to reach an agreement with The Bogdhan Group, we will then negotiate with the second-ranked firm, Dahab Associates, Inc. Staff will present a Resolution to the Town Council awarding a contract on February 14, 2017.

FUNDING/FISCAL IMPACT

The first year fees for The Bogdhan Group are proposed at \$38,000. The expected total fees (consultant, investment managers, and custody fees) with The Bogdhan Group for the investment

management of the OPEB trust are .58% of asset value, compared with our current fee total of .81%.

PURCHASING REVIEW

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

Attachment:

cc: Investment Advisory Committee
Mr. Dave West, The Bogdhan Group
Adis Pedraza, Purchasing Manager

jls

**RFP No. 2016-48 - Investment Consulting Services
INTERVIEW RANKINGS**

SELECTION COMMITTEE RANKINGS

Committee Member	Michael Andrews	Bernard R. Panfel	Chris Storkerson*	Kevin McClusky	Andrew Frazier	Total
	Rating	Rating	Rating	Rating	Rating	Average Rating
1 The Bogdahn Group	4.85	5.00	0.00	4.30	4.50	4.66
2 Dahab Associates, Inc.	4.85	4.70	0.00	4.00	5.00	4.64
3 PFM Asset Management LLC	5.00	5.00	0.00	4.30	4.00	4.58
4 Gallagher Fiduciary Advisors, LLC	4.55	4.00	0.00	3.00	3.60	3.79

*Chris Storkerson had to leave the interviews and did not participate in the evaluations

TOWN OF PALM BEACH

Town Council Meeting on: January 10, 2017

Section of Agenda

Consent - Other

Agenda Title

Request to Consider Ordinance Nos. 1-2017, 2-2017 and 3-2017 Prior to 5:00 p.m.
at a Public Hearing

Presenter

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

ATTACHMENTS:

- **Memorandum dated December 21, 2016, from John S. Page, Director of Planning, Zoning and Building**

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 10, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Request to Consider Ordinance Nos. 1-2017, 2-2017 and 3-2017 Prior to 5:00 p.m. at a Public Hearing

Date: December 21, 2016

STAFF RECOMMENDATION

Staff recommends that the Town Council conduct the public hearings on Ordinance Nos. 1-2017, 2-2017 and 3-2017 at the Town Council meetings at which the proposed Ordinances are to be heard prior to 5:00 p.m. The proposed Ordinances will be heard on first reading at the January 11, 2017 meeting, and it is anticipated that the second reading of Ordinance No. 1-2017 will be on February 15, 2017. Second reading of Ordinance Nos. 2-2017 and 3-2017 will be when a response is received from the Florida Department of Economic Opportunity on the proposed Comprehensive Plan amendment (Ordinance No. 2-2017). This item is on the Consent Agenda. If the Town Council adopts the Consent Agenda the Staff recommendation will be effectuated.

GENERAL INFORMATION

Florida Statutes require the Town Council hold at least one of two public hearings to adopt a comprehensive plan amendment or zoning amendment ordinance after 5:00 p.m. However, the Statute provides that the time can be changed if a majority plus one of the local governing body elect to have a hearing at another time. Staff is requesting that the Town Council elect to conduct the public hearings on Ordinance Nos. 1-2017, 2-2017 and 3-2016 during the course of the normal Council business. The first reading of the proposed Ordinances will be on January 11, 2017. Second reading of Ordinance Nos. 2-2017 and 3-2017 will be when a response is received from the Florida Department of Economic Opportunity on the proposed Comprehensive Plan amendment (Ordinance No. 2-2017). All three public hearings may occur before 5:00 p.m.

TGB:jsp:pc

cc: John C. Randolph, Town Attorney
Jay Boodheshwar, Deputy Town Manager
Susan A. Owens, Town Clerk
Veronica B. Close, AICP, Planning, Zoning and Building Asst. Director
Paul W. Castro, AICP, Zoning Administrator
zf

TOWN OF PALM BEACH

Town Council Meeting on: January 10, 2017

Section of Agenda

Consent - Other

Agenda Title

Request to Authorize the Ordinances, Rules, and Standards Committee to Consider Potential Amendments to the Town Code of Ordinances at Chapter 106, Article VII, Special Events on Public Property, and Section 10-10, Temporary (Animal) Permits.

Presenter

Susan A. Owens, MMC, Town Clerk

ATTACHMENTS:

- ▣ **Memorandum Dated December 29, 2016, from Susan A. Owens, MMC, Town Clerk**

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 10, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: Susan A. Owens, MMC, Town Clerk

Re: ORS Committee Consideration of Potential Code Amendments to Chapter 106, Article VII, Special Events on Public Property, and Section 10-10, Temporary (Animal) Permits

Date: December 29, 2016

STAFF RECOMMENDATION

Staff recommends that the Town Council authorize the Ordinances, Rules, and Standards (ORS) Committee to Consider Potential Code Amendments to Section 10-10, Temporary (Animal) Permits, and Chapter 106, Article VII, Special Events on Public Property.

GENERAL INFORMATION

Temporary Animal Permit Amendments

In 2016, ORS recommended, and the Town Council approved, several Code amendments to Section 10-10 of the Town Code, which regulates Temporary Animal Permits. One of these amendments established time limits for residential areas and private clubs; however, no time limits were established for commercial areas in Town. The current Code provisions limit the hours on residential properties to 9:00 a.m. thru 6:00 p.m., and limit the hours for private clubs to 9:00 a.m. thru 9:00 p.m. ORS will be requested to consider and recommend an appropriate time limit(s) for the commercial zoning districts in the Town.

Special Event Permit Amendments

In the course of administering and issuing Special Event Permits, Staff has come across several Special Event Permit Code provisions that we are recommending be amended, clarified, updated, removed, or added to the Code. Staff is still in the process of finalizing which provisions need to be amended; however, some of the more substantive matters identified so far include the following:

- 1) Inclusion of the Town Council in the special event permit approval process for those events that technically meet all Special Event Permit requirements, but have the potential to cause significant impacts to the community or Town property
- 2) Amendment of permit submission and approval timeframes in order to:
 - a. Provide ample opportunity for all seven departments involved in the approval process to thoroughly review the applications
 - b. Address any portions of the application that require a coordinated response and/or action from multiple departments
 - c. Account for the significant number of applicant-related delays due to the submission of incomplete applications, missing or insufficient supplemental

- documentation, and the volume of follow-up communication required during the approval process with both applicants and approvers in other departments
- d. Address the significant administrative burden and rushed application review created by applications that are submitted late
 - 3) Determination as to whether the time spent setting up before, and cleaning up after, an event should be included in the three-hour maximum event duration or whether regulations should be established allowing applicants additional limited time for these activities
 - 4) Increase of permit fees to recover the increases in actual Town costs to process and issue these permits

FUNDING/FISCAL IMPACT

If permit application and late fees are increased, then additional revenue will be realized commensurate with the increase approved.

TOWN ATTORNEY REVIEW

This item has been approved by the Town Attorney.

cc: Jay Boodheshwar, Deputy Town Manager
Kathleen Dominguez, Deputy Town Clerk

TOWN OF PALM BEACH

Town Council Meeting on: January 10, 2017

Section of Agenda

Consent - Other

Agenda Title

Authorization of Ordinance, Rules and Standards Committee to Study Amending Section 38-35 of the Town Code of Ordinances, Relative to Service Charge for False Alarms

Presenter

Kirk Blouin, Director of Public Safety

ATTACHMENTS:

- **Memorandum Dated December 27, 2016, from Jay Boodheshwar, Deputy Town Manager**

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 10, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

Via: Kirk Blouin, Public Safety Director

From: Darrel Donatto, Deputy Fire-Rescue Chief

Re: Authorization of Ordinance, Rules and Standards Committee to Study Amending Section 38-35 of the Town Code of Ordinances, Relative to service charge for false alarms

Date: December 27, 2016

STAFF RECOMMENDATION

Staff recommends Town Council authorize the Ordinance, Rules and Standards (ORS) Committee of the Town Council to study the potential amendment of the Town Code of Ordinances at Section 38-35, relative to modifications to regulations pertaining to service charge for excessive false alarms.

GENERAL INFORMATION

Per Chapter 38 of the Town Code of Ordinances, Section 38-35. –

(a) It is found and determined that more than two false alarms within a period of 12 calendar months beginning October 1 in any year is excessive and thereby constitutes a public nuisance. The owner of any alarm system which actuates more than two false alarms in any period of 12 calendar months beginning October 1 of any year shall be charged a service charge as determined by resolution of the town council as may be amended from time to time. The owner of any alarm system which actuates more than two false alarms for fire services in any period of 12 calendar months beginning October 1 of any year shall be charged a service charge as determined by resolution of the town council as may be amended from time to time.

(b) False alarms which occur as the direct result of transmitting a direct connect alarm system signal to the police department shall not be considered a public nuisance and shall not result in a false alarm charge until more than 15 false alarms are activated in any period of 12 calendar months beginning October 1. Any false alarms activated after 15, whether it be by human error or malfunction, shall be charged a service charge as determined by resolution of the town council as may be amended from time to time.

(c) If the alarm user has not paid the fines within 30 days, an automatic ten percent penalty per month shall be assessed for nonpayment of said delinquent fees. The ten percent penalty shall be calculated on the total outstanding account balance, including prior penalties. Additionally, if the alarm user has not paid the fines and penalties, he will receive proper legal notice as outlined in the state statutes to appear in person before the code enforcement board. The code enforcement board will use any of its powers to bring the alarm user to compliance, including but not limited to directing a lien to be filed on the alarm user's property.

(d) The town manager, upon written notification to the mayor and town council of intent to waive false alarm charges, may waive false alarm charges for power outages that occur within the town. In order for the town manager to invoke the discretionary power granted herein for temporary power outages, the alarm user must present to the town manager written verification from Florida Power & Light of the temporary outage at alarm user's property. No such proof shall be required for power outages when such power outage results from a tropical storm or hurricane event that directly impacts the town and which causes a power outage of 24 hours or greater affecting at least 20 percent of the town.

(Ord. No. 18-07, § 1, 9-11-07; Ord. No. 5-2014, § 1, 2-11-2014)

Staff members have reviewed the previous 12-month history of false alarms. Contractors working on projects have caused an average of 25% of the false alarms experienced over the last 12 months. Staff believes that our ordinance currently issues a false alarm notice to the property owners and charges the alarm against the permitted (2) false alarms each year for that property. The property owner often is not present when the system goes off and are held responsible for the poor work techniques of their contractors. The goal of the ordinance is to reduce false alarms. Staff recommends an immediate fine for contractor derived false alarms. The cost of the fine should start at the current first fine and increase in compliance with the adopted fees in the ordinance. The contractor would be fined for each occurrence in the Town of Palm Beach, through the year, in incremental amounts based on the fee schedule.

cc: John C. Randolph, Town Attorney
Jay Boodheshwar, Deputy Town Manager
H. Paul Brazil, P.E., Director of Public Works
John Page, Director of Planning, Zoning & Building

TOWN OF PALM BEACH

Town Council Meeting on: January 10, 2017

Section of Agenda

Consent - Other

Agenda Title

Designation of the Mar-a-Lago Property (1100 South Ocean Boulevard) as a Duly Designated Location for the Take-Off and Landing of Helicopters During President-Elect Donald J. Trump Term(s) of Office as President of the United States Pursuant to Section 14-34 of the Town Code of Ordinances

Presenter

Thomas G. Bradford, Town Manager

ATTACHMENTS:

- ▣ **Memorandum dated December 5, 2016, from Thomas G. Bradford,**
- ▣ **Town Manager**
- Code Section 14-34**

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 10, 2017

To: Mayor and Town Council

From: Thomas G. Bradford, Town Manager

Re: Designation of the Mar-a-Lago Property (1100 South Ocean Boulevard) as a Duly Designated Location for the Take-Off and Landing of Helicopters During the President-Elect's Term(s) of Office as President of the United States Pursuant to Section 14-34 of the Town Code of Ordinances

Date: December 5, 2016

STAFF RECOMMENDATION

Pursuant to Section 14-34 of the Town Code of Ordinances, staff recommends the Town Council designate Mar-a-Lago as a duly designated location for the take-off and landing of helicopters during the President Elect's upcoming term(s) of office. All other ordinances, rules and regulations of the Town will remain in effect, including, but not limited to, permitting such as is required for the construction of a helipad and compliance with the requirements of Chapter 54 (Historical Preservation) of the Town Code of Ordinances.

GENERAL INFORMATION

After conferring with Kirk Blouin, Director of Public Safety, and John Randolph, Town Attorney I am of the opinion that the Town Council should consider designating Mar-a-Lago, 1100 South Ocean Boulevard, as a duly designated location for the take-off and landing of helicopters in order to facilitate transportation of the President-Elect of the United States, Donald J. Trump, to and from his residence at Mar-a-Lago, 1100 South Ocean Boulevard, during his term (s) of office as President of the United States. By taking this action the frequency of motorcades between Palm Beach International Airport and Mar-a-Lago will be reduced thereby avoiding local and regional traffic tie ups associated with the movements of the President while in Palm Beach. In consultation with the Town Attorney it was concluded that the easiest way to accommodate this need is to have the Town Council designate Mar-a-Lago, 1100 South Ocean Boulevard, for take-off and landing of helicopters per the provisions of Section 14-34 of the Town of Palm Beach Code of Ordinances during the term(s) of office for the President-Elect. All other ordinances, rules and regulations of the Town will remain in effect, including, but not limited to, permitting such as is required for the construction of a helipad and compliance with the requirements of Chapter 54 (Historical Preservation) of the Town Code of Ordinances. A

copy of Section 14-34 of the Town of Palm Beach Code of Ordinances is attached for your review.

If you concur, it is requested that the Town Council adopt a motion as follows:

“I move that the Town Council designate Mar-a-Lago, 1100 South Ocean Boulevard, for take-off and landing of helicopters pursuant to the provisions of Section 14-34 of the Town of Palm Beach Code of Ordinances during the term(s) of office for President-Elect, Donald J. Trump. All other ordinances, rules and regulations of the Town remain in effect, including, but not limited to, permitting such as is required for the construction of a helipad and compliance with the requirements of Chapter 54 (Historical Preservation) of the Town Code of Ordinances.”

This item appears on the Consent Agenda. Approval of the Consent Agenda will be considered as an affirmation of the recommendations contained herein including the recommended motion.

Cc: Kirk Blouin, Director of Public Safety
John C. Randolph, Town Attorney

Sec. 14-34. - Taking off, landing.

It shall be unlawful to take off or land any aircraft in the town other than at a location duly designated for such activity.

(Code 1982, § 13-7)

TOWN OF PALM BEACH

Town Council Meeting on: January 10, 2017

Section of Agenda

Board/Commission Annual Report

Agenda Title

Recreation Advisory Commission Annual Presentation

Presenter

Pamela McIver, Recreation Advisory Commission Chair

ATTACHMENTS:

- **Memorandum Dated December 20, 2016 from Pamela McIver,
Recreation Advisory Commission Chairperson**

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 10, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: Pamela McIver, Recreation Advisory Commission Chairperson

Re: Recreation Advisory Commission Annual Presentation

Date: December 20, 2016

Executive Summary

The content of this annual report includes a period of growth and progress, challenges and opportunities for the Recreation Advisory Commission and the Recreation Department. The highlights of the report include:

1. Commission Membership/Meetings
2. Par 3 Golf Course Level of Service
3. Tennis Center Improvements
4. Town Docks
5. Recreation Center Update
6. Recreation Center and Seaview Park Needs Assessment and Master Plan
7. FY2017 Budget Development

Commission Membership/Meetings

The RAC is comprised of seven regular members and three alternate members, appointed by Town Council for three-year terms. A chairperson and vice-chairperson are selected by the members on an annual basis. The Commission held five regular meetings and one special meeting this past year. The current Commission membership is as follows:

Commissioner	Position	Term Expires
Pamela McIver	Chairperson	4/17
Matthew Smith	Vice-Chairperson	4/19
Khooshe Aiken	Regular Member	4/17
Dr. G. Ellen Howe	Regular Member	4/18
Roberta Mambrino	Regular Member	4/17
Alexandra Woodfield	Regular Member	4/18
Leslie Wytrzes	Regular Member	4/19
Nicholas Coniglio	Alternate Member	4/19
John C. Hartz, Jr.	Alternate Member	4/18
Linda Wartow	Alternate Member	4/19

This year Mr. Steve Hall concluded his eight years of service on the Recreation Advisory Commission. His service to the Town and the Commission exemplified the highest quality of dedication.

New appointments to the Commission include: Leslie Wyrzes from an alternate member to a regular member, reappointment of Linda Wartow as an alternate member and appointment of Nicholas Coniglio as an alternate member.

Par 3 Golf Course Level of Service

The Par 3 Golf Course had another record year with a total of 36,861 rounds of golf played during fiscal year 2016. Tournaments continue to flock to this oceanside treasure as the Par 3 played host to over 80 tournaments and outings, traveling from as far as Vero Beach. The popularity of the golf lesson and clinic program has remained constant, with patrons providing positive feedback concerning the quality of the lessons and the instructors. The Recreation Advisory Commission appointed member, John Hartz, Jr. to work with staff in the development of a modified model for the implementation of golf instruction services, which became effective on January 1, 2017. It is anticipated that this alternative method will result in an increase in revenue by approximately 24% each fiscal year.

The restaurant, al Fresco, at the Par 3, continues to show consistent growth. Town staff has been working very closely with al Fresco staff to address all operational issues which have been identified. The popularity of the golf course and the restaurant is a testament to the outstanding service which has become the hallmark of this remarkable facility.

Outstanding course conditions remain a priority at the Par 3 and the members of the Commission have provided input on budgetary recommendations, assisting in the establishment of a well - planned, thoughtful maintenance schedule. The hard work and efforts paid off, as the Palm Beach Par 3 was named one of the top three Par 3 courses in the country by GolfAdvisor.com in 2016.

Tennis Center Improvements

The Recreation Advisory Commission appointed Chairperson, Pam McIver to serve on the RFP Committee for the selection process for the new contractor providing professional tennis instruction services. The structure of the new agreement guarantees a minimum increase of revenue of 10% over fiscal year 2016. In addition, the level of service being provided at Seaview Tennis Center and Phipps Tennis Center has increased, as a direct result of the efforts exerted during the selection process.

Phipps Tennis Center received a complete makeover during the summer season. The courts were all resurfaced, the fencing and windscreens replaced, landscaping improved and interior spaces painted. This work was all accomplished without the interruption of service. The facility remained open for play during the duration of this renovation project.

Town Docks

The Town Docks have continued to exceed cost recovery goals for fiscal year 2016. Annual and seasonal lease occupancy, at the 83 slips, reached 100%. This was the second year in a row that this was accomplished. Cost recovery of over 390% was attained.

The waitlist for this upcoming season has 16 boats on it, ranging from 50' to 130' plus. Staff continues to address maintenance needs of the facility, working diligently to ensure the docks are maintained to the highest standards possible. New and innovative methods of providing service continue to be investigated.

The Recreation Advisory Commission has identified a need for the upgrade of the Town Docks.

Recreation Center Update

The Recreation Center offered more programs and enhanced several other programs this past fiscal year. Summer camp continues to be one of the most popular programs. An expansion of services to include early drop off and extended evening hours resulted in the increase in revenue by 10% over last fiscal year. The Halloween event was restructured to include inside and outside activities. A hayride and pumpkin patch was added, to assist in creating a true fall festival atmosphere. Attendance at this event skyrocketed, as families came out to enjoy the rides, games, snacks and haunted house. Feedback from Nicholas Coniglio, RAC alternate member, regarding the youth soccer program, resulted in the reorganization of this program to a more competitive format. It is anticipated that this change will address the needs of the residents and encourage higher participation.

Staff continue to solicit feedback from residents and the RAC on program opportunities.

Recreation Center and Seaview Park Needs Assessment and Master Plan

In 2014, the RAC began discussions regarding the need for a long-term Master Plan to address the adequacy of existing recreation facilities, obtain community input as to recreational needs and to develop a list of prioritized recommendations for new and improved facilities at the Recreation Center and Seaview Park.

The Needs Assessment and Master Plan for Seaview Park and the Recreation Center remained a focus of the Recreation Advisory Commission throughout the year. RAC members worked with the consultants as part of a focus group which assisted in providing the qualitative data which was utilized in establishing the information which was presented in the final report, completed in June 2016. Matt Smith, Vice Chair, was selected to serve as a member of the Steering Committee for this project. He continues to work alongside staff in the development of the plan.

Presentations regarding the status of the Seaview Park and Recreation Center project were provided at each RAC meeting. A motion was made at the March 2, 2016 Recreation Advisory Commission meeting to endorse the conceptual plan presented by Nelo Freijomel from Stephen Boruff Architects. The motion passed with a unanimous vote in support of the initial conceptual design. of the proposal.

A Special Recreation Advisory Commission meeting was held on November 17, 2016, to review the modified project plans, which incorporated ARCOM's and the public's input. A motion to support the modified project plans failed with a vote of 3-4. A motion was approved 4-3 to recommend to Town Council that an additional survey be implemented to help the Town verify that the plans being contemplated are consistent with the desires of the community.

The Commission wishes to acknowledge the generosity and forethought of the Morton and Barbara Mandel Family Foundation and the Friends of Recreation. The collaboration of these two organizations, with the Town of Palm Beach's commitment to match funds raised, has created a strong public-private partnership that demonstrates how groups can work together to achieve a shared vision.

FY2017 Budget Development

The RAC reviewed the proposed Recreation Department fee schedule and revenue projections for the Town Docks, Par 3 Golf Course, Recreation Center, and Tennis Centers; as well as the expenditure budgets for the department at the March 2 and May 4 meetings. The RAC supported staff recommended fee increases at the Town Docks and the Par 3 Golf Course. Following a review of the fees, staff recommended minor golf fee increases to the maintenance and improvement fees and the practice range fees. Staff also recommended dockage rate increases of 3% to 5% for annual and seasonal customers. Increases of 3% to 8% for transient dockage were also recommended and supported by RAC. No fee changes were recommended, by staff, for the Tennis Centers or the Recreation Center. The RAC recommended approval of the budget for the Town Docks, Recreation Center, Par 3 and Tennis Centers, as proposed.

The Recreation Enterprise Fund was able to contribute \$785,000 into the General Fund for fiscal year 2016.

Conclusion

The members of the RAC had a productive year and are looking forward to a very exciting 2017.

With new programs and improved facilities, exciting opportunities continue to present themselves which will assist in increasing participation levels and bring in additional revenue to the Department. The Commission is optimistic about the future and is committed to working with the staff to meet any challenge which may present itself. We are involved in a healthy dialogue concerning the role of recreation in the Town of Palm Beach. We look forward to continuing that conversation and moving forward into 2017.

cc: Recreation Advisory Commission
 Beth Zickar, Director of Recreation
 Rod Gardiner, Assistant Director of Recreation
 Tony Chateauvert, Golf Manager
 Mike Horn, Dockmaster

TOWN OF PALM BEACH

Town Council Meeting on: January 10, 2017

Section of Agenda

Committee Reports

Agenda Title

Report of the Finance and Taxation Committee Meeting of December 1, 2016

Presenter

Michael J. Pucillo, Chair

ATTACHMENTS:

- **Report of the Finance and Taxation Committee Meeting of December 1, 2016**

**REPORT OF THE FINANCE AND TAXATION COMMITTEE
MEETING HELD ON THURSDAY, DECEMBER 1, 2016**

I. CALL TO ORDER AND ROLL CALL

The Finance and Taxation Committee meeting was called to order on December 1, 2016, at 2:00 p.m., in the Town Council Chambers. On roll call, all Committee Members were found to be present

II. PLEDGE OF ALLEGIANCE

Chair Pucillo led the Pledge of Allegiance.

III. COMMUNICATIONS FROM CITIZENS - None

IV. APPROVAL OF AGENDA

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

V. CONSIDERATION OF GENERAL EMPLOYEE AND LIFEGUARD PENSION MATTERS

a. DISCUSSION OF ADDITIONAL ALTERNATIVE OPTIONS FOR THE RETIREMENT BENEFIT PLAN FOR GENERAL EMPLOYEES AND LIFEGUARDS

Human Resources Director Olson provided a report on the average retirement age and whether the 2012 pension changes had any effect on the Town's retirement age, the survey results from other municipalities in the State of Florida on their general employee retirement plans, and the amount of accounts that are managed through ICMA and the current fee structure. Ms. Olson also provided data on the widespread participation in the "default" option of the Defined Contribution Plan which was a target retirement date fund.

Finance Director Struder presented the requested new pension scenarios that focused on a lowered retirement age of 62, an increased multiplier of 1.75%, and various contribution options from 2-4% from the town and the employees into a hybrid Defined Benefit and Defined Contribution plan with and without a thirty year and out provision, the Town's budget cost savings and return assumption over the current plan, the Unfunded Actuarial Accrued Liability increases for each

**REPORT OF THE FINANCE AND TAXATION COMMITTEE MEETING
HELD ON THURSDAY, DECEMBER 1, 2016**

scenario, and the calculations for the Defined Benefit and Defined Contribution Annuity scenarios for 30 years of service vs. 20 years of service.

General Employee Representative for the Retirement Board of Trustees Madison spoke on behalf of the general employees regarding their reaction to the new scenarios, the employees' level of understanding of a Defined Benefit vs. Defined Contribution, concerns with raising the employee contribution, and efforts to educate the employees on their retirement plan benefits.

Town Manager Bradford spoke regarding the Florida Retirement System vs. the Town's scenarios and the concept of a multiplier of 1.75% with an Employee Contribution of 3% and a Town Contribution of 3.75%.

Peter Strong, Gabriel, Roeder & Smith, provided additional information regarding the proration and financial impacts of the new scenarios and the scenario concept mentioned by Mr. Bradford.

Director of Public Works Brazil spoke on behalf of the Public Works employees regarding the alternative scenarios being perceived as a huge compromise.

Discussion ensued regarding the possible pension scenarios and how they would be received by the employees and effect the Town, the wide range of job classifications among the employees and how they value their retirements, the possibility of increasing the multiplier and adding an additional 2% voluntary contribution to the Defined Contribution plan with an employee match at either dollar for dollar or 50% of the contributed amount with the inclusion of a 3.5% employee contribution to the Defined Benefit Plan, and the timing for bringing this discussion to the December Town Council meeting.

It was the consensus of the Finance and Taxation Committee to provide an informal report of today's meeting and discuss the possible pension scenarios at the December Town Council Meeting with the Town Actuary Peter Strong and General Employee Representative Brett Madison in attendance.

ANY OTHER MATTERS - None

ADJOURNMENT

There being no further business, the Finance and Taxation Committee meeting of Thursday, November 3, 2016, was adjourned at 3:37 p.m.

APPROVED:

Michael J. Pucillo
Chair

REPORT OF THE FINANCE AND TAXATION COMMITTEE MEETING
HELD ON THURSDAY, DECEMBER 1, 2016

1 ATTEST:
2
3

4 _____
5 Susan A. Owens, MPA, MMC
6 Town Clerk
7

8 _____
9 Date

TOWN OF PALM BEACH

Town Council Meeting on: January 10, 2017

Section of Agenda

Committee Reports

Agenda Title

Report of the Public Safety Committee Meeting of December 6, 2016

Presenter

Margaret Zeidman, Chair

ATTACHMENTS:

- ▣ **Report of the Public Safety Committee Meeting of December 6, 2016**

**REPORT OF THE PUBLIC SAFETY COMMITTEE MEETING
HELD ON TUESDAY, DECEMBER 6, 2016**

I. CALL TO ORDER AND ROLL CALL

The Public Safety Committee meeting was called to order on Tuesday, December 6, 2016, at 3:09 p.m., in the Town Council Chambers. On roll call, Chair Zeidman and Committee Member Lindsay were present.

II. PLEDGE OF ALLEGIANCE

Chair Zeidman led the Pledge of Allegiance.

III. COMMUNICATIONS FROM CITIZENS - None

IV. APPROVAL OF AGENDA

Motion was made by Committee Member Lindsay, and seconded by Chair Zeidman, to approve the Agenda. On call for a vote, the motion carried unanimously.

V. UPDATE ON CURRENT ACTIVITIES/STATUS OF POLICE DEPARTMENT AND FIRE DEPARTMENT

Chair Zeidman congratulated Deputy Fire Rescue Chief Darrell Donatto on receiving the Fire Chief of the Year Award by the Florida Fire Chief's Association and the committee thanked him for his commitment to Public Safety.

Director of Public Safety Blouin provided an update of the current activities of the Police and Fire Department. Discussion ensued regarding the attributes for the crime reduction, the reputation of the Town of Palm Beach as a safe community and the culture and environment of the public safety staff.

Police Department Successes

1. Despite staff and budget reduction, crime has significantly decreased over the last 30 years. In 1987 there were 699 "Part 1" crimes; in 2016 there were 128. Part 1 crimes include burglary, theft and violent crimes such as murder and rape. Most Part 1 crimes in Palm Beach are burglary and theft.

2. The 2016 clearance rate, defined as percent of crimes solved, was 60% while the national average is 18%. Director Blouin cites several factors that contribute to the department's success: a culture that values deterrence and prevention; vigilant officers; increased patrol operation; and cameras which increase solvability.

Fire Department Successes

1. Assistant Fire Chief Duane spoke regarding the 22% reduction in false fire alarms for 2016. He also reviewed the "Fall Prevention Initiative." Falls are the most frequent call for Fire-Rescue medical help. Many of the falls lead to serious health problems and most could be prevented. The Palm Beach Fire & Rescue will initiate a program that reduces falls by: providing better balance classes, performing in home risk assessments for those residents who express interest, and gathering statistics which will help identify those individuals at high risk.

REVIEW OF TOWN RESPONSE TO HURRICANE MATTHEW

Director of Public Safety Blouin provided a report of the Town's response to Hurricane Matthew.

Discussion ensued regarding the low number of subscribers to the Town's email alert system for emergency information and the lack of communication from Florida Power and Light.

Additionally, Director Blouin recommend that the Town adopt a four (4) phase system for re-entry to the island; Phase 1 – Police, Fire and Safety Personnel only, Phase 2 – Residents and building managers, Phase 3 – Business owners, employees, and patrons, Phase 4 – Checkpoints at areas of power outages.

Feedback was reported from the Southend of Palm Beach which included one incident where the condo manager could not get back on the island before the residents of her building and the concern about lack of police presence for re-entry south of the 3475 South Ocean building. Director Blouin reassured residents that a police officer will be stationed at that entry point in the future.

Overall, Director Blouin was pleased with the Town's response. Police and Fire personnel cleared trees and debris beginning at 3:00 a.m. which enabled residents to get to their homes earlier than anticipated.

VI. PRESIDENT-ELECT TRUMP COMMUNITY IMPACTS

Director of Public Safety Blouin provided a summary of the Town of Palm Beach's role during the current visit from President Elect Trump over the Thanksgiving holiday and the Town's response plan in preparation for future visits from the President. Mr. Blouin reported that most of the personnel resources will come from the Palm Beach County Sheriff's department but there will be some impact to the Town's department as well.

VII. TOWN OF PALM BEACH ZIKA RESPONSE

Director of Public Safety Blouin provided a summary of the department's role with Zika Virus prevention, education and enforcement. Specifically, Building Inspectors and Public Works employees have received instructions on identifying high risk areas of mosquito breeding, Code Enforcement formalized a process of resident notification, water treatment and remedy should increased mosquito activity be identified at construction sites.

VIII. RESIDENT SAFETY CONCERNS

Director of Public Safety Blouin spoke regarding the police department's plan to increase their presence on the bike trail.

Discussion ensued regarding the possibility of bringing back the Citizens Police Academy and Neighborhood Watch Program.

IX. ANY OTHER MATTERS - None

X. ADJOURNMENT

There being no further business, the Public Safety Committee meeting of day, December 6, 2016, was adjourned at 4:51 p.m.

APPROVED

Margaret A. Zeidman
Chair

ATTEST:

Susan A. Owens, MPA, MMC
Town Clerk

Date

TOWN OF PALM BEACH

Town Council Meeting on: January 10, 2017

Section of Agenda

Committee Reports

Agenda Title

Report of the Ordinances, Rules, & Standards Committee Meeting of December 8, 2016

Presenter

Bobbie Lindsay, Chair

ATTACHMENTS:

- **Report of the Ordinances, Rules, & Standards Committee Meeting Held on December 6, 2016**
- **Supplemental ORS Report of the December 8, 2016 Meeting prepared by Bobbie Lindsay**

**REPORT OF THE ORDINANCES, RULES, AND STANDARDS COMMITTEE
MEETING HELD ON THURSDAY, DECEMBER 8, 2016**

I. CALL TO ORDER AND ROLL

The Ordinances, Rules, and Standards Committee (ORS) meeting was called to order on December 8, 2016, at 9:30 a.m., in the Town Council Chambers. On roll call, all of the Committee Members were found to be present.

II. APPROVAL OF AGENDA

Motion was made by Committee Member Moore, and seconded by Chair Lindsay, to approve the Agenda. On call for a vote, the motion carried unanimously.

III. COMMUNICATIONS FROM CITIZENS - *None*

IV. REGULAR AGENDA

A. Old Business

1. None

B. New Business

1. Potential Amendment of Town Code, Relative to Advertising Signage on Vehicles

Ben Alma, Code Enforcement Manager

Parking & Code Enforcement Manager Alma spoke regarding concerns with the lack of language in the Town Code that prohibits mobile billboard advertising.

Discussion ensued regarding the City of Port St. Lucie's Code of Ordinances and regulations with respect to sign codes, researching an ordinance for billboard advertising that includes parked and mobile vehicles, the prevention of potential parking issues on the beach due to parked signs, and the Supreme Court's decision with respect vehicle signage.

Town Attorney Randolph spoke regarding concerns with potential violations of freedom of speech and applying the regulation of content to all signs.

It was the consensus of the Committee to direct Staff to research parked signs and possibly amend the Town's Ordinance to regulate signs/billboards on parked vehicles while taking into account the Supreme Court's ruling on signage and upon review of Port St. Lucie's Ordinance. Should staff's research find any regulations regarding similar mobile signage, that would also be reported at the February 2, 2017, ORS Meeting.

2. Consideration of Banning Balloons Near Beaches and Single-Use Plastic Bags

Jay Boodheshwar, Deputy Town Manager
10:00AM TIME CERTAIN

Deputy Town Manager Boodheshwar provided an overview of the Town's partnership with the Palm Beach Day Academy to research the environmental impacts related to single-use plastic bags and inflated balloons.

Gray Foster, a ninth-grade student from Palm Beach Day Academy, spoke regarding his passion for protecting the ocean and presented his thorough research supporting the banning of single-use plastic bags and outdoor use of inflated balloons on the Island.

Discussion ensued regarding the harmful effects of plastic bags and balloons, potential difficulties with enforcing the law, code enforcement and fines, Palm Beach County's consideration on preventing balloon use on beaches, existing Florida legislation preventing home rule on single purpose plastic bags, potential problems and conflicts with preemption by the State, the ORS committee's role in recommending regulation on environmentally harmful issues to the Town, potential community outreach to notify residents about new regulations, elected officials and residents writing to state representatives and working with professional lobbyists to repeal the legislation preventing home rule on the use of plastic bags.

Jack Lighton, CEO Loggerhead Marinelife Center, spoke regarding his support of the Town's ban on single use plastic bags and the County likelihood of instituting a permanent ban on balloon use on beaches. He showed examples of bags and balloons taken from dead sea turtles who had ingested them because they were mistaken for food.

Diane Buhler, Friends of Palm Beach, spoke regarding her organization's role on removing trash and debris from the Town's beaches, the harmful effects of plastic waste, and her support of banning single use plastic bags in the community.

Elena Foster, spoke regarding her support on banning the use of plastic bags and cited an example Ordinance that was provided in the meeting back-up.

**REPORT OF THE ORDINANCES, RULES, & STANDARDS COMMITTEE MEETING
HELD ON THURSDAY, DECEMBER 8, 2016**

1 Dr. Gordon, Palm Beach Day Academy, spoke regarding his pride with
2 Mr. Foster's project, thanked the ORS Committee for the opportunity to
3 research and present the information, and his support of an educational
4 partnership with the Town on banning the use of plastic bags and
5 balloons.
6

7 **It was the consensus of the Committee to direct Staff to bring to Town Council a**
8 **resolution asking to repeal the law preventing Florida municipalities from banning the**
9 **use of plastic bags while in the meantime, encouraging residents to adopt re-usable bags**
10 **and to provide an Ordinance for first reading that would prevent the use of inflated**
11 **balloons at the January 10, 2017, Town Council Meeting.**
12

13 **ACTION: Join the other 24 cities in Florida who have passed a resolution to repeal the**
14 **existing law preventing home-rule on banning plastic bags and ask that Mayor Coniglio**
15 **write to State Legislature and ask the Town's lobbyists to pressure lawmakers about the**
16 **need for a state-wide ban on single-use plastic bags.**
17

18 **V. ANY OTHER MATTERS - None**
19

20 **VI. ADJOURNMENT**
21

22 There being no further business, the Ordinances, Rules, and Standards Committee
23 meeting of Thursday, December 8, 2016, was adjourned at 10:30 a.m.
24
25
26

27 APPROVED:
28
29
30

31 _____
32 Bobbie Lindsay
33 Chair
34

35 ATTEST:
36
37

38 _____
39 Susan A. Owens, MPA, MMC
40 Town Clerk
41

42 _____
Date

Ordinance, Rules and Standards Report for December 8, 2016

At the Council's request, on December 8 Dani Moore and I considered the possibility of banning single purpose plastic bags in our community as well as prohibiting the release of inflated (helium) balloons on our island. Council gave us this item to study in the late spring, but we decided to wait until the season to consider these important issues. Furthermore, I asked staff to contact Palm Beach Day Academy to see if they were interested in having students involved in researching these issues as a fall project. The school was interested and ninth-grader and fourth generation islander, Gray Foster, conducted a comprehensive study of these issues, which he presented at the December 8 meeting. The CEO of Loggerhead Marine Center also spoke, as did a number of other informed individuals. Some highlights from Gray's report and the other speaker's comments are below.

Plastics are becoming a serious issue for our marine environment, due to their slow decomposition and gradual breakdown into tiny plankton-size (food-size) particles. Torn pieces of bags and balloons are often mistaken for food by sea turtles, sea birds and fish, and can result in death if ingested. In a 9.5 mile stretch, Palm Beach County had 17,000 sea turtle nests in 2016, the highest by orders of magnitude in North America. Our local beaches are the number one economic asset for our area.

America uses 100 billion single use plastic bags annually and we don't fully understand the impact on the marine environment we are having. Less than 12% are recycled. Plastic bags touted as "biodegradable" are only so inside a landfill at high temperatures, (not in our oceans or your home composter). Plastics break down slowly (10-20 years) into small pieces. Many of these items end up in our oceans.

At this time, the state of Florida has prohibited by the legislature home rule on prohibiting single purpose plastic bags by a municipality or county. Dani and I urge the council to adopt the resolution before you today, joining 25 other Florida cities (and 2 counties) to notify our governor and legislature, that we want them to immediately repeal the law prohibiting home rule on this issue. We also ask that our mayor work with our state lobbyist to pressure the legislature to pass a bill

repealing this law state-wide, not just a pilot program for coastal communities as is currently being introduced. We also ask that the town encourage its residents to adopt the use of reusable bags, as many other communities have done on the west coast and in Europe. Furthermore, we request that we pass an ordinance that prohibits the release of inflated balloons or plastic/lanterns into the atmosphere. A state law exists that no more than 10 balloons may be released within 24 hours. We should make that number zero, inform our lifeguards and post appropriate signage at Phipps and midtown along with notice of fines for violators.

The other item discussed on Dec 8, adverstising billboards on parked trucks or cars, is covered in the minutes.

Respectfully submitted,

Bobbie Lindsay, Chair, Ordinance, Rules and Standards Committee

TOWN OF PALM BEACH

Town Council Meeting on: January 10, 2017

Section of Agenda

Regular Agenda - Old Business

Agenda Title

Recreation Center Update

Beth Zickar, Director of Recreation

TIME CERTAIN: 10:30 a.m.

- a. Update on Proposed Recreation Center and Improvements to Seaview Park
- b. Revised Architectural Plans, Timeline and Costs
- c. Survey
- d. Ratification of Selection Committee Recommendations for Construction Manager At-Risk (CMAR) Services for Seaview Park and Palm Beach Community Center Improvements - RFQ No. 2016-45.
H. Paul Brazil, P.E., Director of Public Works

Presenter

ATTACHMENTS:

- ▣ **Memorandum Dated December 29, 2016 From Beth Zickar, Director of Recreation**
- ▣ **Memorandum Dated December 20, 2016, from H. Paul Brazil, P.E., Director of Public Works**
- ▣ **Construction Manager at Risk Final Ranking - RFQ No. 2016-45**
- ▣ **Proposed Conceptual Plans and Elevations**

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 10, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: Beth Zickar, Director of Recreation

Re: Update on Proposed Recreation Center and Improvements to Seaview Park

Date: December 29, 2016

STAFF RECOMMENDATION

Staff requests that Town Council review the following status report regarding the proposed recreation center and improvements to Seaview Park project and provide direction to staff as necessary.

GENERAL INFORMATION

Project History

In 2014, the Recreation Advisory Commission began discussions regarding plans for potentially updating the Recreation Center at Seaview Park. In October of 2015, the Morton and Barbara Mandel Family Foundation provided a donation to the Town to fund a needs assessment and master plan for the Recreation Center and Seaview Park. The study was designed to:

- Determine the recreation needs, interests and wants of Town residents and other facility users;
- Identify facility and program improvements to be made to Seaview Park and Recreation Center and/or other Town parks and recreation facilities;
- Prioritize potential improvements based on residents' feedback and available funding.

Presentations at public meetings have been held throughout, from the project's conception. These have included the following:

October 7, 2015	Recreation Advisory Commission	Special Meeting – Proposed Needs Assessment and Master Plan for Recreation Center and Seaview Park
November 4, 2015	Recreation Advisory Commission	Regular Meeting – Needs Assessment and Master Plan for Recreation Center and Seaview Park
January 5, 2016	Community Workshop	Focus Group – Palm Beach Recreation Center and Seaview Park Needs Assessment and Master Plan

January 6, 2016	Recreation Advisory Commission	Regular Meeting – Recreation Needs Assessment and Conceptual Plan for Seaview Park and Recreation Center Focus Group – Led by Barth Associates
March 2, 2016	Recreation Advisory Commission	Regular Meeting – Status report on Needs Assessment and Master Plan for Recreation Center and Seaview Park.
May 4, 2016	Recreation Advisory Commission	Regular Meeting – Presentation on Recreation Center and Seaview Park Needs Assessment, including conceptual master plan for Seaview Park and a new Recreation Center. Voted to recommend Town Council move forward with the master plan.
June 14, 2016	Town Council	Presentation on conceptual master plan for Seaview Park and Future Recreation Center.
July 12, 2016	Town Council	Status report and approval of conceptual plans for Seaview Park and Recreation Center and approval of public/private funding partnerships. Project estimate was \$15M to be shared 1/3 by the Town, 1/3 by the Mandel Foundation and 1/3 by the Friends of Recreation.
August 4, 2016	Community Workshop	Public meeting held at Recreation Center to discuss Seaview Park and Recreation Center project plans.
October 26, 2016	ARCOM	Initial presentation of proposed Recreation Center and improvement to Seaview Park. A motion for the demolition, with a request to hear an update from the Town regarding safety and security and to sod and irrigate the property within 30 days, was made and passed by the Commission. A motion to defer the project for one month for further changes was also approved.
November 1, 2016	Public Meeting	Meeting held at Recreation Center to solicit additional input on project from the community.
November 15, 2016	Public Meeting	Meeting held at Town Hall to present changes made to the project in response to ARCOM feedback, as well as community input received at the Nov. 1 public meeting.
November 17, 2016	Recreation Advisory Commission	Special Meeting – Review of updated projects plans, which incorporated ARCOM and public input. Motion to support modified project failed. Motion passed to recommend to Town Council an additional survey be implemented to help the Town verify that the plans being contemplated are consistent with the desires of the community.
November 30, 2016	ARCOM	Updated project plans presented. Motion to approve variances and special exceptions was approved. Approval of the project was deferred with recommendations to continue to consider further reducing size and make other changes to the project.

December 13, 2016	Town Council	A change in direction of the building design to a one-story concept was proposed. Staff was directed to move forward with a one-story plan and return at the January meeting with an update. A request for deferral of the project from the Development Review meeting on December 14 and the ARCOM meeting on December 28, 2016 was approved.
-------------------	--------------	--

Renovation vs. New Construction

The consideration of renovation as an alternative to new construction was thoroughly contemplated during the conceptual analysis of this project. Preliminary construction calculations have been developed for both concepts. A renovation of the existing building, assuming the existing foundation, concrete block walls and roof trusses are adequate for reuse, would cost approximately \$3.3M. This cost does not include bringing the building up to the base flood elevations, improvements to the playground, multi-purpose field, landscaping or any additional interior furniture, fixtures and equipment, which could drive the renovation cost in excess of \$5M. A rebuild of the existing building with the same design and square footage, elevated to base flood and assuming no piles or demucking will be required, is estimated to cost approximately \$4.4M to construct. Again, this cost estimate does not include, improvements to the playground, multi-purpose field, landscaping or any additional interior furniture, fixtures and equipment.

A preliminary budget estimate has been completed for the proposed new one floor Recreation Center design. The new design includes approximately 15,000 square feet under air, an expanded and enhanced playground, improvements to the multi-purpose field, which will include more efficient drainage, a new tennis pavilion and enhanced landscaping. The early budgetary estimate total for this project is approximately \$11M (hard and soft costs). The public/private partnership established in the Summer of 2016 would still require each funding partner to be responsible for funding one-third (1/3) of the total cost each. The Town's share would be approximately \$3.6M, instead of \$5M with the earlier two-story project plans.

Business Plan

Ballard*King Associates, Ltd. was hired, by the Friends of Recreation, to assist staff in the completion of a business plan for the proposed new Recreation Center, at no cost to the Town. This plan includes a market review, operations analysis, which includes the identification of revenue sources and operating cost projections and a benchmark study. The business plan will assist Town Council in considering the proposed project in full context, relative to design, finances and usage. The financial plan for this facility will be one of sustainability – creating an income and expense model that is predictable over the long term, avoiding unnecessary risks while ensuring that the facility is well utilized, maintained and serves the community. The reduced one-story project plan is expected to be much more sustainable than earlier plans, as it would be more consistent with the existing facility.

Community Survey

The development and implementation of an additional community recreation survey has been suggested by the Recreation Advisory Commission by a 4-3 vote when the earlier two-story plan was presented. The professional opinion of the project consultants had been solicited regarding the potential insight the Town may garner from this additional information gathering tool. Please see the attached letters. If Council would like further time to consider the survey recommendation, due to

the changing nature of the project, staff can return at a future meeting with additional information. The cost for a random sample survey is expected to cost approximately \$28,000 and take 3 months to complete.

Construction Manager At-Risk

With regard to securing a Construction Manager At-Risk(CMAR)contractor to assist with pre-construction services, Town Council is being asked to consider the ratification of the Selection Committee's recommendation for a CMAR. The services of this firm will permit several early planning steps to begin, which include the ability to generate an updated project budget and a project schedule, once the scope of the project is finalized.

Staff would also work with the CMAR to prepare a construction management plan to address site security, traffic management, safe demolition, retention of usable park spaces during the various phases of construction, coordination with schools to ensure safety of students, and coordination with tennis operations to minimize impact. Extra measures will be taken to ensure this project site is treated in a similar manner as a project on an active school campus. Measures such as credentialing labor, installing secondary project fencing and coordinating work which generates considerable noise around testing dates are sample of actions we would take. No right-of-way parking permits will be issued for this project as there is sufficient on-site area to keep the project contained without impacting parking and traffic on adjacent streets.

Next Steps

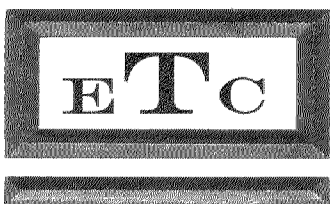
Staff is seeking direction from Town Council regarding the updated project plans. If Council finds the plans to be in keeping with the needs of the community and the fiscal expectations of Town Council, an approval will allow the architect to work with staff to finalize plans for ARCOM consideration at the February 22, 2017 meeting and then back to the Town Council Development Review meeting on March 15,2017 (if approval is received from ARCOM).

FUNDING/FISCAL IMPACT

The completion of the business plan and pre-construction phase services, will be funded by the Friends of Recreation.

Attachments

cc: Recreation Advisory Commission
Jay Boodheshwar, Deputy Town Manager
H. Paul Brazil, Director of Public Works
Jane Struder, Director of Finance
Rod Gardiner, Assistant Director of Recreation
Morton and Barbara Mandel Family Foundation
Friends of Recreation, Inc.



ETC INSTITUTE

MARKETING RESEARCH, DEMOGRAPHY, STATISTICAL APPLICATIONS

725 W. FRONTIER CIRCLE, OLATHE, KANSAS 66061
(913) 829-1215 FAX: (913) 829-1591

November 20, 2016

Beth Zickar, Recreation Director
Town of Palm Beach
Recreation Department
P.O. Box 2029
340 Seaview Avenue
Palm Beach, FL 33480
Phone: 561-227-6457

Subject: Statistical Validity of the Town's 2016 Community Survey

Dear Ms. Zickar:

It is my understanding that some residents in your community are questioning the statistical validity of the survey ETC Institute conducted for the Town of Palm Beach earlier this year. I am writing to reassure you and others that the results are truly representative of the community.

Overview of the Survey Methodology

The survey was mailed to 7,271 of the 9,091 housing units in the Town. Housing units that were owned by part-time residents living overseas were not included in the sample. In addition, home owners who had multiple housing units were only sent one survey, to prevent people from responding more than once.

In most cases, surveys were mailed to attention of the "current resident" at the property address in Palm Beach to be sure renters were included in the sample. Altogether, 80% of housing units in the Town were mailed a survey.

The survey packets contained a cover letter, a copy of the survey, and a postage-paid, return envelope. A few days after the surveys were mailed; ETC Institute sent emails and placed phone calls to households for whom email addresses and phone numbers were available to encourage participation. The emails contained a link to the on-line version of the survey, to make it easy for residents to complete the survey. Respondents who completed the survey on-line were required to enter their home address prior to submitting the survey. ETC Institute then matched the addresses that were entered on-line with the addresses that were originally selected for the random sample. If the address from a survey completed on-line did not match one of the addresses selected for the

sample, the on-line survey was not counted. This was done to prevent people who were not residents of the Town from completing the survey. It was also done to prevent people from completing the survey multiple times.

The goal was to obtain surveys from at least 600 households. The actual number of households that responded to the survey was 1,029. Since a high percentage of the Town's housing units are not occupied full-time, the response rate of 14.1% was considered to be very good, since the survey took the average respondent more than 15 minutes to complete.

Assessment of the Composition of the Sample

One in seven households in the Town of Palm Beach completed the Town's 2016 survey. This is very high considering the fact that U.S. Census Bureau used to select one in six households to receive the long version of the Census until 2000. The Census Bureau discontinued the practice of having a "long-form" for the 2010 survey because it was replaced by the American Community Survey, which is administered to a much smaller sample of U.S. residents each year.

Some of the evidence that the 2016 Survey is representative of the Town's population include the following:

- ETC Institute mapped the location of respondents to the survey and compared the location of survey respondents to the location of all households in the Town. This exercise showed that the distribution of survey respondents mirrored the physical distribution of the Town's housing units.
- There were a total of 2,117 people living in the 1,029 households that completed the survey. This means that 24% of the Town's 8,812 residents were represented in the households that completed the survey. This is a very very high percentage of the Town's population given the length of the survey.
- 61% of the respondents to the survey were age 65 or older, which is almost identical to the 2015 U.S. Census estimate. According to the U.S. Census Bureau, among adults age 18 and older in the Town of Palm Beach, 60% are age 65 and older.
- 53% of the respondents to the survey were female and 47% were male. This is within the margin of error for the survey when compared to the U.S. Census estimates of 55% female and 45% male

Given that (1) a very high percentage of residents were represented in the survey, (2) the age and gender distributions of the survey are similar to the U.S. Census estimates, and (3) the geographic composition of the sample mirrors the distribution of the Town's actual population, **it is very reasonable for the Town to conclude that the results of the survey are representative of the Town's population within the margin of error for the survey, which is +/-2.9% at the 95% level of confidence.**

Potential Limitations of the Survey

While the results of the survey are certainly representative of the Town's population, the 2016 Survey did not specifically ask residents if they would use recreation facilities at the location that is currently being considered. Instead, the conclusions from the 2016 survey were based on an assessment of unmet needs and the importance that residents place on a wide range of facilities and programs.

Based on my 20+ years of experience in the field of community-based market research, I would expect to have found a similar set of priorities if we had asked residents about their willingness to use facilities/programs at a specific location, but this conclusion cannot be reached based on the survey data alone because the question was not posed in this manner.

Next Steps

As I already mentioned, I do not think a follow-up survey is needed because the Town will probably get the same results. But if the Town needs to be certain that this location is viable, ETC Institute would be willing to submit a bid to conduct a follow-up survey.

Sincerely,

A handwritten signature in cursive script that reads "Christopher E. Tatham".

Christopher Tatham
CEO

November 29, 2016

Beth Zickar, Director of Recreation
Town of Palm Beach
PO Box 2029
Palm Beach, FL 33480

Re: Seaview Park Development Program

Dear Beth,

In response to your request I reviewed our Palm Beach Community Center & Seaview Park Needs Assessment and Master Plan (the Plan) to assess whether it is sufficient to create a development program for the park and community center. Following are my conclusions.

First, the planning process/ methodology was intended to help the Town create a development program for Seaview Park and other Town parks. As stated on p. 5 of the Plan, our objectives for the study included:

- “Determine the recreation needs/ interests/ wants of Town residents and other facility users
- Identify potential facility and program improvements to be made to Seaview Park and Recreation Center and/or other Town parks and recreation facilities
- Prioritize potential improvements based on resident’s feedback and available funding”

Second, the findings from the various needs assessment techniques were consistent in identifying residents’ top priority needs as they related to Seaview Park and Recreation Center. As noted on p. 51, we “incorporated a multi-pronged approach to identifying needs, meaning that various types of qualitative and quantitative techniques were used to identify top priorities from different perspectives.” Key findings from the various techniques included:

- Level-of-Service Analysis: “the Facilities and Access LOS Analysis indicate that the Town is potentially deficient in indoor pools, indoor recreation center space, gymnasiums, playgrounds, dog parks, basketball courts, multi-purpose fields, public golf courses, and boat ramps.” (p. 22)
- Park Visits: “Seaview Recreation Center scored low in the Buildings/Architecture category due to the dated appearance of the building, its interior finishes, and equipment. The building’s systems are also aged (e.g. mechanical, electrical, plumbing, etc.) and do not provide the efficiency that a modern system provides.” (p. 34)

- Park Operations, Programs, and Maintenance: “Most recreation programs and services are delivered from the Seaview Park and Recreation Center, tennis courts and athletic field. In general, the Center is not adequate to serve existing and projected needs. The building needs upgrades and expansion, parking and access should be improved and its relationship to surrounding park and recreation facilities should be redesigned to be more inclusive and supportive to users.” (p. 42)
- RAC/ Steering Committee Meeting: “One major theme was that the Seaview Park and Recreation Center is a keystone facility for the Town and should be improved and expanded.” (p. 52)
- Public Outreach Meeting: “Top priority facility needs include indoor fitness facility, leisure/ lap pool, playground, outdoor fitness stations, and pickleball courts. Top priority program needs include youth swim lessons, adult personal fitness, and adult pilates. Proposed improvements to Seaview Park and Recreation Center include outdoor fitness stations, leisure/ lap pool, pickleball courts, fitness center, indoor spaces, snack bar/ cafe, playground, central tennis pro shop, 2nd floor observation deck, gym, teen lounge and parking.” (p.55)
- Interviews: “Maintaining and improving the Seaview Park and Recreation Center, the Seaview Park Tennis Center and the Town Docks were seen as the Town’s top priorities in that order. Recommendations specific to the Center included expanding the physical structure and programs to better meet existing and future residents including younger families.” (p. 57)
- Statistically-valid Mail/ Telephone Survey: “Indoor fitness and exercise facilities, tennis courts, playgrounds, and sailing and rowing facilities were most needed by the respondents. Yoga, educational lecture series, tennis, pilates and personal fitness instruction were the top five most important adult programs/ activities. The top five most important youth programs/ activities were tennis lessons/clinics, soccer, camps (summer/ school break), after school programs and art classes. Specific to the Seaview Park and Recreation Center, seventy-nine percent (79%) of households indicated it was important for the Town of Palm Beach to have a modern recreation center.” (p. 64)

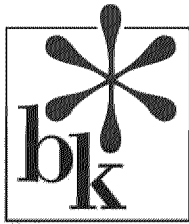
Finally, during the Conceptual Master Plan phase of the planning process, “two alternative Development Programs were created in response to the findings from the Needs Assessment” (p. 70). We also considered alternative locations to meet residents’ priority indoor recreation needs and concluded that Seaview Park and Community Center was the most logical site, based on the findings above. As a result, as stated on p. 92, a “Proposed Master Plan was developed, incorporating elements from both Preliminary Concepts...based on feedback from the Recreation Advisory Commission and the Project Steering Committee... Ultimately, a two-story reconstruction option was found to be most appropriate to facilitate the target budget & proposed program.”

In conclusion, I believe that the Palm Beach Community Center & Seaview Park Needs Assessment and Master Plan is sufficient to create a development program for the park and the community center. Please let me know if you have any questions or need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "David Barth". The signature is fluid and cursive, with a long horizontal stroke at the end.

David Barth, PhD
RLA, AICP, AICP
Principal



BALLARDKING***
& ASSOCIATES LTD
Recreation Facility Planning and Operation Consultants

November 22, 2016

Ms. Beth Zickar
Director of Recreation
Town of Palm Beach
340 Seaview Avenue
Palm Beach, FL 33480

Dear Beth,

As you are well aware, Ballard*King & Associates is in the midst of working on an operations plan for the proposed new recreation center. This effort requires a great deal of information to develop an accurate plan.

With the material that you have supplied us regarding current center operations as well as your work on a possible new operating budget, we have a clear understanding of the operations requirements of the new facility. In addition, we have a detailed program for the center and a concept plan that identifies the spaces in the building and their relationship to each other. With all of this, the information that is required for our work is now in place.

As a result, we are moving forward with our operations budget for the new center with a goal of having our work completed by December 23, 2016.

Sincerely,

Ken Ballard
President

*Ballard*King and Associates is committed to comprehensive planning and operations consulting services, providing for the effective and efficient use of available resources to develop and operate sports, recreation and wellness facilities.*

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 10, 2017

TO: Mayor and Town Council

VIA: Thomas G. Bradford, Town Manager

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

RE: Ratification of Selection Committee Recommendations for Construction Manager At-Risk (CMAR) Services for Seaview Park and Palm Beach Community Center Improvements - RFQ No. 2016-45

DATE: December 20, 2016

STAFF RECOMMENDATION

Town staff recommends that Town Council ratify the recommendations and ranking of the selection committee for RFQ No. 2016-45 for CMAR services for the Seaview Park and Palm Beach Community Center Improvements, and authorize the Town staff to enter into negotiations with Hedrick Brothers Construction, Inc. (Hedrick Brothers) for the required pre-construction phase services.

GENERAL INFORMATION

The Town has used several different contracting methods to accomplish construction projects. These procurement methods typically consist of public bid, establishment of pre-qualified contractors that competitively bid projects, and Construction Manager At-Risk (CMAR).

We have completed numerous complex projects in the past using the CMAR approach and those projects have been very successful. This particular project to be accomplished includes significant impacts to residents, use and occupancy of two (2) adjacent schools, an ongoing tennis facility operation, very tight site constraints and traffic impacts, and a need for close coordination to mitigate conflicts between construction work and all these other factors. Given the overall existing project workload, the complexity of this project, and the importance of this project to the community, staff recommends using and retaining a construction management firm as early as possible in the project process. A significant portion of the project budget will be donated and the donors have stated a preference for this contracting method.

Staff issued a request for qualifications (RFQ 2016-45) and received responses from seven (7) construction management firms. The selection committee consisted of Jay Boodheshwar, Deputy Town Manager, Jane Struder, Finance Director; Beth Zickar, Recreation Director; Matthew Smith, Friends of Recreation Chairman; Eric Brown, P.E., Assistant Director of Public Works; Michael Roach P.E., Project Engineer; Patricia Strayer, P.E., Town Engineer (non-voting); Nelo

Freijomel, Architect (non-voting); Ilyse Triestman, Assistant Purchasing Manager (non-voting); Adis Pedraza, Purchasing Manager (non-voting); and John Cmar, Purchasing Coordinator (non-voting).

The selection committee met on November 7, 2016 to review the submittals, and three (3) firms were short-listed by the committee to be finalists. The selection committee met with the three (3) finalists on November 16, 2016 separately to conduct interviews (presentations and question/answer). These three (3) firms were ranked as follows based on those interviews:

- Hedrick Brothers Construction, Inc.
- The Weitz Company, LLC
- Kaufman Lynn Construction Inc.

The selection committee recommended that the RFQ/contract be awarded to Hedrick Brothers. Based on the Town Council approval of the selection of Hedrick Brothers as the CMAR for this project, staff will meet with Hedrick Brothers to negotiate the pre-construction phase fee proposal and agreement for approval by the Town Council at a future date. If negotiations fail with Hedrick Brothers, staff requests approval to commence negotiations with the second-ranked firm, The Weitz Company, LLC.

It is also anticipated that the Town Council will accept donated funds to pay for these pre-construction services.

FUNDING/FISCAL IMPACT

Sufficient funds are being donated to pay for these pre-construction phase services by the Friends of Recreation.

PURCHASING REVIEW

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

TOWN ATTORNEY REVIEW

The draft of the pre-construction agreement will be reviewed by the Town Attorney for legal form and sufficiency once the fee proposal has been received.

Attachment

cc: Beth Zickar, Director of Recreation
Jane Struder, Director of Finance
Eric Brown, Assistant Director, Public Works
Adis Pedraza, Purchasing Manager



TOWN OF PALM BEACH

MEMORANDUM

DATE: November 17, 2016

TO: H. Paul Brazil – Director of Public Works

FROM: Adis Pedraza - Purchasing Manager 

SUBJECT: Final Ranking – RFQ No. 2016-45 – Seaview Park and Palm Beach
Community Center Improvements - Construction Manager at Risk Services

The Town received proposals from seven (7) contractors. The Selection Committee met on November 7, 2016, to review the submittals. All members of the committee listed below were present. Three companies were finalists, shortlisted by the Committee – Hedrick Brothers Construction Co., INC; Kaufman Lynn Construction, Inc.; and, The Weitz Company, LLC. The Selection Committee met on November 16, for presentations and interviews with the shortlisted companies. All members of the committee listed below were present except for Adis Pedraza (Non-Voting):

Jay Boodheshwar – Deputy Town Manager
Michael A. Roach, P.E. – Project Engineer
Eric Brown, P.E. – Assistant Director of Public Works
Jane Struder – Director of Finance
Beth Zickar – Director of Recreation
Matthew Smith – Friends of Recreation Chairman
Patricia Strayer, P.E. – Town Engineer (Non-Voting)
Nelo Freijomel – Architect (Non-Voting)
Adis Pedraza – Purchasing Manager (Non-Voting)
Ilyse Triestman – Assistant Purchasing Manager (Non-Voting)
John Cmar – Purchasing Coordinator (Non-Voting)

After thorough consideration of the three (3) finalists' proposals, the Selection Committee arrived at a final ranking as follows:

1. Hedrick Brothers Construction Co., INC
2. The Weitz Company, LLC
3. Kaufman Lynn Construction, Inc.

It is the recommendation of the Selection Committee to award a contract to Hedrick Brothers Construction Co. for the Seaview Recreation Center Construction Manager at Risk Services.

Cc: File: RFP No. 2016-45
John Randolph, Town Attorney
Selection Committee Members

SEAVIEW AVENUE

ADJACENT 1-STORY BUILDING

ADJACENT 2-STORY BUILDING

ADJACENT CAFETERIUM

ADJACENT GYMNASIUM

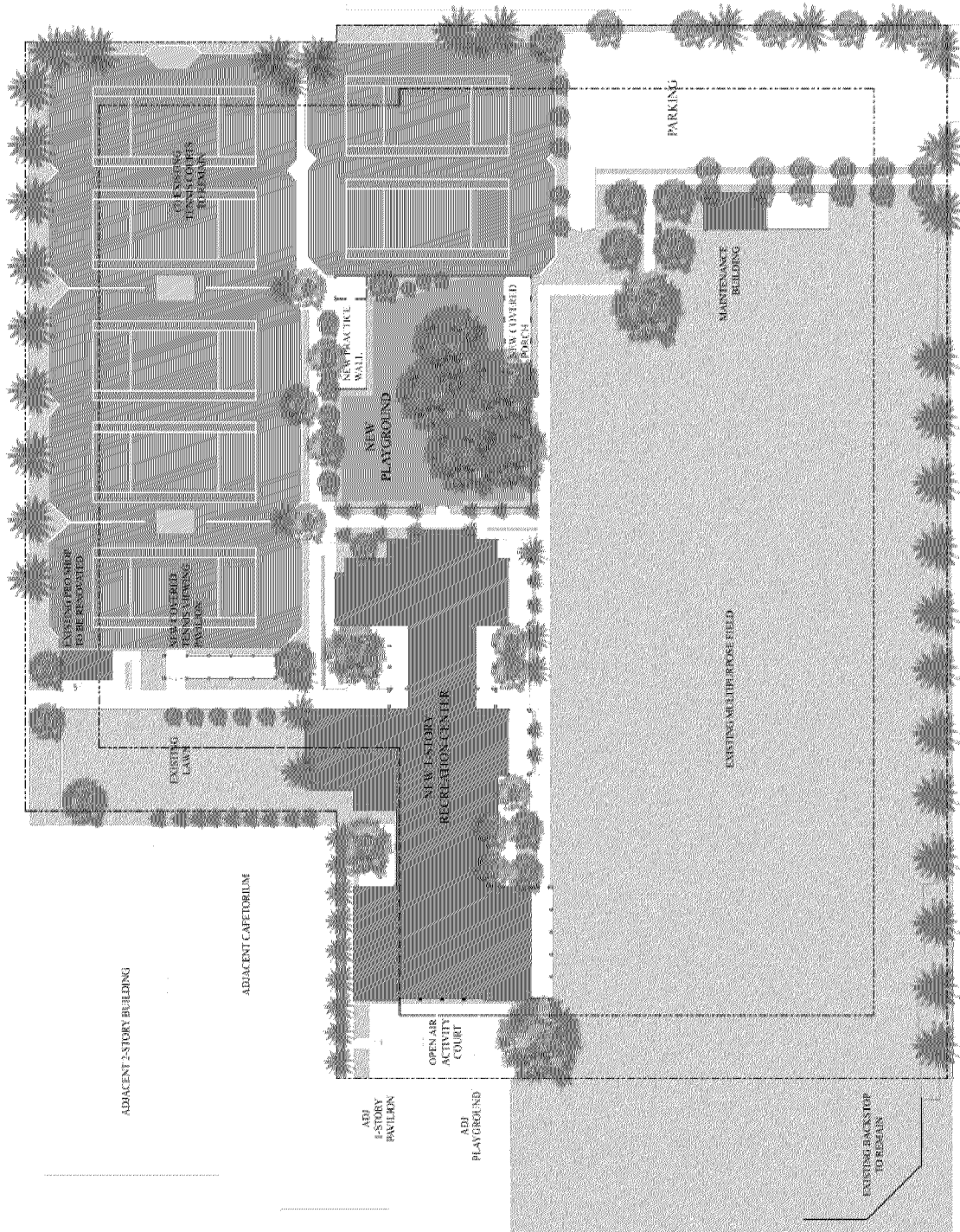
ADJACENT 2-STORY BUILDING

ADJACENT 5-STORY
PARKING GARAGE

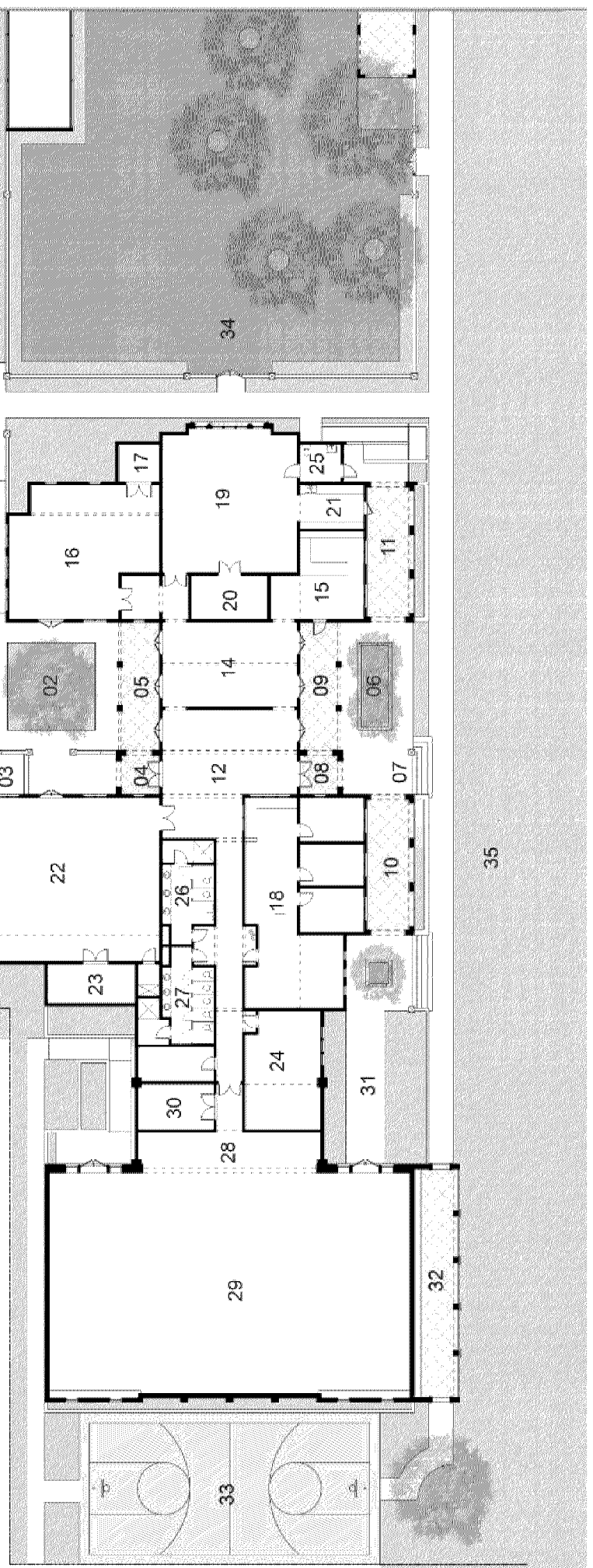
ADJACENT
6-STORY BUILDING

PALM BEACH
PUBLIC SCHOOL

ROYAL PALM WAY



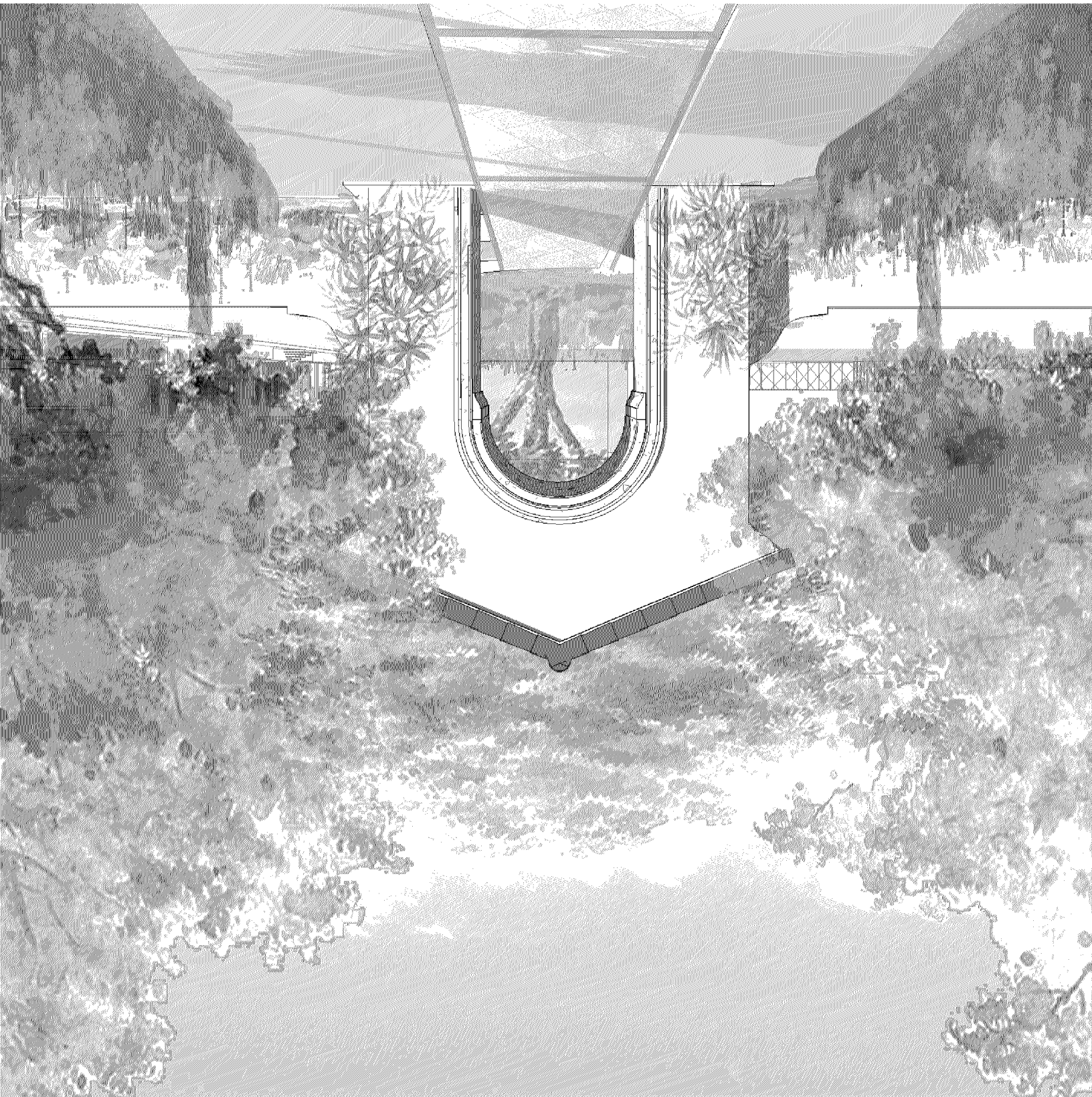
- | | | | |
|----|----------------------|----|------------------------|
| 01 | Great Lawn | 19 | After School Program |
| 02 | Seaview Garden | 20 | After School Storage |
| 03 | Seaview Entry Stairs | 21 | Craft Center |
| 04 | North Entry Tower | 22 | Wellness Center |
| 05 | North Colonnade | 23 | Wellness Storage |
| 06 | South Plaza | 24 | Classroom |
| 07 | South Entry Stairs | 25 | Family Restroom |
| 08 | South Entry Tower | 26 | Men's Restroom |
| 09 | South Colonnade | 27 | Women's Restroom |
| 10 | West Porch | 28 | Gym Seating |
| 11 | East Porch | 29 | Gymnasium |
| 12 | Lobby | 30 | Gymnasium Storage |
| 14 | Game Room | 31 | Gymnasium Garden |
| 15 | Snack Bar | 32 | Gymnasium Porch |
| 16 | Multipurpose Room | 33 | Open Air Activity Area |
| 17 | Multipurpose Storage | 34 | The Playground |
| 18 | Administration | 35 | Multipurpose Field |











TOWN OF PALM BEACH

Town Council Meeting on: January 10, 2017

Section of Agenda

Regular Agenda - Old Business

Agenda Title

Discussion of Potential General Employee Pension Changes

TIME CERTAIN: 11:30 a.m.

Presenter

Jane Struder, Director of Finance

ATTACHMENTS:

- ▣ **Memorandum Dated January 3, 2017, from Jane Struder, Director of Finance**
- ▣ **General Employees Retirement Plan**

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 10, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: Jane Struder, Director of Finance

Re: Supplemental Information for Potential General Employee Pension Modifications

Date: January 3, 2017

STAFF RECOMMENDATION

Staff is recommending the Town Council provide direction regarding potential General Employee Pension Modifications.

GENERAL INFORMATION

At the December 13, 2016, Town Council meeting, the Town Council requested additional information and scenarios for the proposed General Employee Pension modifications. Attached is a presentation that contains the information requested and additional information on the General Employee Pension Plan.

FUNDING FISCAL IMPACT

The financial impact of the various scenarios are included in the presentation.

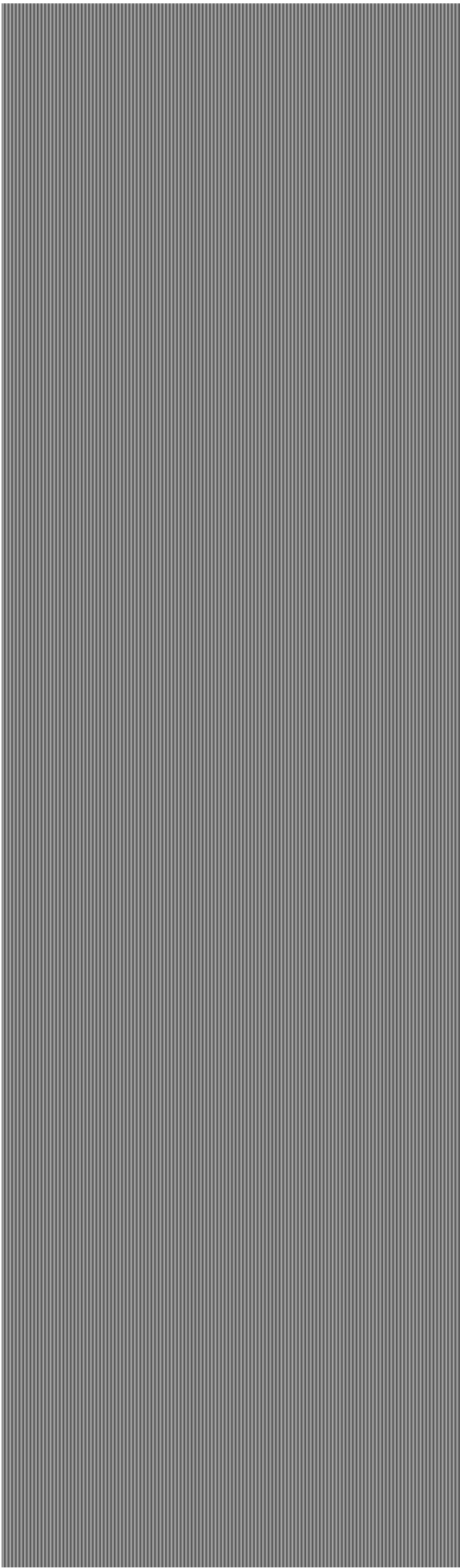
Jls

cc: William Hanes, Pension Administrator
Jim Linn, Pension Attorney
Department Directors

GENERAL EMPLOYEES RETIREMENT PLAN

PRESENTATION TO TOWN COUNCIL,

JANUARY 10, 2017

A large, solid gray rectangular area that occupies the right half of the page, likely serving as a placeholder for a logo or image.

CONSIDERATION OF PENSION ELIGIBILITY BY JOB FAMILY

- The Town Council requested information on separating benefits by Job Classification
- This creates a problem due to:
 - Six Job Families:
 - Administrative, Executive, Laborer, Technical/Supervisory, Recreation/Public Welfare, Trades/Maintenance
 - 120 total unique job classifications of General employee retirement plan covered positions
 - 55 of the unique classifications involve work of a labor intensive and/or safety sensitive nature across job families
- Career ladders spread across job families, presenting concerns:
 - Inability to promote from within;
 - Issues with succession planning;
 - Negatively impact morale
- Administratively difficult to manage

GENERAL EMPLOYEE RETIREMENT BENEFIT HISTORY

REVISED HYBRID PROPOSAL IS A COMPROMISE

	Plan A Legacy Plan Prior to 5/1/12	Plan B Hybrid After 5/1/12	F&T Hybrid Proposal 12/1/16
Retirement Age General Employees	55	65	62
Ocean Rescue	50		
Multiplier General Employees	2.75%	1.25%	1.75%
Ocean Rescue	2.85%		
Employee Contribution	6.47%	2.47%	3.5%
COLA	2% after 36 months	None	None
Average Final Compensation	Salary, OT, Longevity Bonus, on highest 2 consecutive years	Base Salary Only Average of last 5 years	Base Salary Only Average of last 5 years
DC Employee Contribution	0%	4%	3%
DC Town Contribution	0%	4%-8%	4%
Pension after 20 years \$50,000 ending average Final Compensation	\$27,500	\$12,500 + DC Balance	\$17,500 + DC Balance
Surviving Spouse	75% of retirees benefit	Available to purchase	Available to purchase

CHANGES SINCE PENSION REFORM MAY 1, 2012 CAUSES OF PENSION COST INCREASES

- Changed investment assumption from 8% to 7.5% for September 30, 2012 Actuarial Valuation - Cost of \$930,000 and then changed investment assumption graduated stepdown from 7.5% to 7.0% beginning with September 30, 2016 Actuarial Valuation - Approximate cost of \$163,892 for each .10% decrease
- Changed wage inflation assumption from projections of 3.7% to 7.3% range to 3.5% as of the September 30, 2015 Actuarial Valuation. The wage assumption is expected to change to 2.75% for the September 30, 2016 Actuarial Valuation. Lower the assumption, the higher the contribution.
- Adopted new State mandated mortality tables – transition year was September 30, 2015, full transition for the September 30, 2016 Actuarial Valuation – Cost of the mortality table change and original wage assumption change was \$875,564.
- Investment loss in 2015.
- Ceased participation in Chapter 175/185 State program for Public Safety officers. Final Year FY12
Total Receipts: Police \$323,938, Fire-Rescue \$600,648

GENERAL EMPLOYEE RETIREMENT BENEFIT OPTIONS CURRENT AND PROPOSED BENEFIT OPTIONS

[illegible]

IMPACT OF BENEFIT CHANGES

Breakdown of the impact of various proposed benefit changes

Net effect of proposed options for benefit changes is a **savings** ranging from \$156,240 to \$355,334

Benefit Changes	Cost	UAAL Change
Retirement Age Change from 65 to 62	\$31,000	\$125,000
Multiplier Change from 1.25% – 1.75%	\$257,000	\$1,328,000
Multiplier Change from 1.25% - 1.7%	\$231,300	\$1,195,200
Increase in Member Contribution 2.47% - 3.5%	(\$93,000)	(\$153,000)
DC Contribution Change per 1%	\$117,168	\$0

RETIREMENT BENEFIT AMOUNTS

DB Benefit Options

	1.25%	1.75%	1.70%	2.75% Pre-2012
30 Year Pension @ \$52,179*	\$19,567	\$27,394	\$26,611	\$43,048
20 Year Pension @ \$52,179*	\$13,045	\$18,262	\$17,741	\$28,698

DC Benefit Options

	12% DC	6% DC	9% DC	10% DC
30 Year DC Balance at 5% Earnings	\$474,384	\$237,192	\$355,788	\$398,156
20 Year DC Balance at 5% Earnings	\$218,440	\$109,220	\$163,830	\$182,033

- \$52,179 represents average salary of hourly non-exempt worker
- Current plan, 4% of the 12% DC is discretionary upon annual vote of the Town Council
- 6% represents **minimum** DC benefit for all proposed options
- 9% represents total DC benefit for 2%/1% optional DC plan (see columns 2, 5, 6, 9 and 10 on page 5)
- 10% represents total DC benefit for 2%/2% optional DC plan (see columns 3, 4, 7, and 8 on page 5)

THE AVERAGE GENERAL EMPLOYEE ACTIVE AND RETIREMENT EXAMPLES

Non-Exempt Hourly Single Employee at \$52,179/year

Average Monthly Salary \$ 4,348

Less Mandatory Deductions:

- 6.47% Town Retirement

- Estimated 20% FICA, medicare & Federal Income taxes

(\$ 1,151)

Less Cost of Living Expenses¹:

Food at Home, Transportation, utilities and public services

(\$ 1,442)

Less Rent and/or Mortgage:

Median home price in Palm Beach County² is \$311k,
median rent in PBC³ is \$1,530

(\$1,530)

Monthly Balance for Remaining Expenses:

- Childcare, emergencies, and non-essential items such as
cable, wi-fi, cell phone, travel, dining out

\$ 225

Average General Retiree (\$52,179 FAC, 20 years service)	Legacy Plan Benefit	Current – Age 65, 1.25% DB, 12% DC	Option: Age 62, 1.75% DB, 10% DC ⁴
--	---------------------------	---	--

Annual Pension

\$ 28,698 \$ 13,045 \$ 18,262

Monthly Pension

\$ 2,392 \$ 1,087 \$ 1,522

Annual Difference from Legacy

n/a (\$ 15,653) (\$ 10,436)

20yr DC Balance at 5% earnings

n/a \$ 218,440 \$ 182,033

of Years the DC Balance can
supplement benefit difference

n/a 14 17.4

Age DC Plan Depleted

n/a 79 79.4

¹Estimated annual expenditures, Consumer Expenditure Survey, 2015, U.S. Bureau of Labor Statistics, Southern Region

² Property values rise in Palm Beach County, marking fifth year of increases, Sun-Sentinel, June 29, 2016

³ Rising apartment rents raising concern, Sun-Sentinel, April 11, 2016

⁴Represents full optional employee contribution (Column number 2, 3 or 4 page 5)

GENERAL EMPLOYEE PENSION FUND - REFERENCE DATA APPENDIX BEFORE AND AFTER PENSION REFORM

Fiscal Year	2011	2012- Pension Reform Change	2013	2017
UAAL (in millions)	\$19,338	\$8,728	\$18,289	\$27,021
Funded Ratio	79%	89%	80%	75%
Active Payroll	\$11,580,000	\$10,926,000	\$9,884,000	\$9,856,000
Retiree Payroll	\$4,465,300	\$4,915,320	\$5,330,952	\$6,433,630
Average Legacy Pension	\$26,899	\$27,614	\$28,206	\$30,931
Active Employees	182	168	155	162
Retired Employees	166	178	189	208
Employee DB Contribution	\$1,241,326	\$307,503	\$289,424	\$289,317
Town DB Contribution	\$3,075,384	\$811,440	\$1,349,163	\$2,578,403
Total Contribution % of pay				
Normal Cost %	22.70%	7.62%	7.81%	6.37% ⁹
UAAL %	4.96%	6.03%	11.90%	18.07%

TOWN OF PALM BEACH

Town Council Meeting on: January 10, 2017

Section of Agenda

Regular Agenda - Old Business

Agenda Title

Status Report Regarding Potential Sale of 5976 Okeechobee Blvd

Presenter

Jay Boodheshwar, Deputy Town Manager

ATTACHMENTS:

- **Memorandum Dated Janaury 3, 2017, from Jay Boodheshwar, Deputy Town Manager**

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 10, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: Jay Boodheshwar, Deputy Town Manager

Re: Update Regarding Potential Sale of Town-Owned Property at 5976 Okeechobee Blvd.

Date: January 3, 2017

STAFF RECOMMENDATION

Staff recommends Town Council review the update below regarding the potential sale of Town property located at 5976 Okeechobee Blvd. and provide feedback to staff as necessary.

GENERAL INFORMATION

At the November 8, 2016, Town Council meeting, staff reported that the Town was contacted by Carmax, Inc. (Carmax) via an unsolicited letter of intent to purchase the entire acreage (28.4) at 5976 Okeechobee Blvd. After consideration of said interest, Town Council directed staff to order an appraisal for the entire 28.4-acre parcel and further explore the unsolicited offer from Carmax and return to a future Town Council meeting. Staff was also directed to pause on the issuance of a Request for Proposals (RPF) for approximately 5.88 acres of Okeechobee Blvd. frontage until such time that Council determines if it wishes to consider selling the entire parcel or just the 5.88 acres of frontage.

Since the November 8 Town Council staff has held meetings with Town Attorney, Skip Randolph and Real Estate Attorney, Mark Dahlmeier, who is an associate at Jones, Foster, Johnston & Stubbs, P.A. Communications have also taken place with representatives from Carmax to discuss their level of interest and preliminary terms and conditions of a potential sale.

As of the date of this memo, I can report that Carmax remains extremely interested in the property. The letter of intent (LOI) originally submitted by Carmax has been thoroughly reviewed by staff and our attorneys. Said letter has been modified by the Town to address issues such as purchase price, feasibility periods, and other terms and conditions. If Town staff and Carmax can reach a mutually agreed upon LOI, said document would be presented to Town Council at the earliest meeting available for consideration and direction.

cc: John C. Randolph, Town Attorney
H. Paul Brazil, P.E., Director of Public Works
Kirk Blouin, Director of Public Safety
Jane Struder, Director of Finance

TOWN OF PALM BEACH

Town Council Meeting on: January 10, 2017

Section of Agenda

Regular Agenda - Old Business

Agenda Title

Consideration of Scheduling an Attorney/Client Session Regarding The Coalition of Immokalee Workers, Inc., vs Town of Palm Beach, Case No. 16-CV-80284-Rosenberg/Brannon, Pending in the United States District Court, Southern District of Florida. Discussion of this Matter to Begin Immediately Following this Regular Town Council Meeting in the Town Council Chambers, 360 South County Road, Palm Beach, Florida. Attorney/Client Session Attendees: Mayor Gail L. Coniglio, Town Council Members Richard M. Kleid, Bobbie Lindsay, Danielle H. Moore, Michael J. Pucillo, Margaret A. Zeidman; Town Manager Thomas G. Bradford, Attorney John C. Randolph, Margaret L. Cooper, Esq., and Court Reporter from Pleasanton and Marsaa Court Reporting.

Presenter

John C. Randolph, Town Attorney

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting on: January 10, 2017

Section of Agenda

Regular Agenda - New Business

Agenda Title

Town Docks Update

Presenter

Thomas G. Bradford, Town Manager

ATTACHMENTS:

- ▣ **Memorandum dated December 28, 2016, from Thomas G. Bradford, Town Manager**
- ▣ **Submerged Land Lease Survey Sketch**
- ▣ **Peruvian Dock Reconfiguration**
- ▣ **Marina Rate Survey**

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 10, 2017

To: Mayor and Town Council

From: Thomas G. Bradford, Town Manager

Re: Request to Hire a Consultant to Prepare a Master Plan for the Replacement of the Town Docks.

Date: December 28, 2016

STAFF RECOMMENDATION

Staff recommends the Town Council authorize staff to issue an RFP solicitation for the hiring of a consultant to prepare a master plan for the replacement of the Town Docks.

GENERAL INFORMATION

At the December Town Council meeting, the Town Council discussed various projects that could be constructed using the new 1 cent sales tax revenue. One of the projects was the rebuilding of the Town Docks. The Town Docks were last rebuilt during the period of 1995 – 1998. We started a Dock replacement account back in 2002 and began to allocate the annual depreciation to this account. In recent years, we have reduced the transfer to the General Fund and increased the allocation to the Dock replacement account to provide additional funding. As of September 30, 2016, the balance in the Dock replacement reserve was \$3,356,780. The FY17 contribution to the reserve is budgeted for \$553,700 which will bring the reserve balance to \$3,910,480 at the end of FY17.

Current estimates for the replacement of the docks are between \$10 and \$12 million depending on the configuration, plus costs for dredging. There may be grant funding available for dredging and other costs. The electrical service at the docks will need to be upgraded. Currently the docks have single phase shore power in all of but 6 slips and 2 of the T heads have 100 amp 480 v 3 phase and 1 T head has 200 amp 480v 3 phase. When the docks are rebuilt, any slips that are 100' or more should have the option of single of 3 phase shore power. The current wifi system needs to be replaced with an upgraded system that will improve service, this cost is estimated at \$40,000 and is included in the FY2018 Recreation Fund Capital Improvement 5-year plan.

In addition to the dock replacement costs, the buildings located at the docks all need to be rebuilt. The estimated cost for the replacement of the buildings is \$450,000.

Annual Dock revenue for FY16 was \$3,578,728. The FY17 revenue budget estimate is \$3,655,600. If the Town Docks were refurbished and configured to maximize revenue, significant revenue increases could be obtained. We have calculated the revenue increase based on

the highest local rates at Palm Harbor and, based on the current configuration, we could increase revenues by 21% or approximately \$4.4 million. Another possible configuration shown on the attached Option 2 layout, would change the focus of the Australian docks into a mega yacht marina. This configuration would reduce the number of docks and displace some of the current tenants, some of which are Town residents. This configuration has the potential to increase revenues by 43% and increase total revenues to approximately \$5.2 million. Because of the change in character of the Australian Docks, we request Town Council guidance as to whether this option or other similar options should be considered in the development of a master plan.

Other alternative configurations could include lengthening of the Peruvian and Brazilian Docks to match the Australian Docks. This option could be analyzed for revenue maximization.

The additional revenue generated by either option could offset the debt service needed to supplement the reserve balance to finance the construction costs. Debt Service on \$8 million over 10 years at 5% is approximately \$1 million per year and over 15 years it would be \$761,000 per year.

Due to the complexity and the various configuration alternatives available we are requesting the Town Council to authorize staff to issue a Request for Proposals (RFP) to hire a consultant to develop a master plan for the docks. Once we have the rankings from the Selection Committee and the Town Council approves that ranking we will know the cost of the consultant. At that time staff will request a contingency allocation of from the Recreation Fund Contingency account to fund the cost of hiring a consultant to develop a master plan for the docks. The cost of the master plan could be \$50,000 or more.

At this juncture we are of the opinion that the scope of the study should include the following:

- A recommended dock configuration that would maximize revenue
- Estimated cost of construction
- Analysis of rate structure
- A pro-forma income statement based on the master plan recommendations including estimated debt service
- Possible sources of grant funding
- Parking alternatives based on the recommended configuration
- Dredging requirements and costs
- Bulkhead inspection and recommendations
- New buildings
- Wave attenuation alternatives
- Possible expansion of the submerged land lease
- Assessment of current condition with recommendation of the year(s) the project should be constructed
- Timing of the replacement (i.e. all in one year, or spread out over a few years)

Attached to this memorandum are the following items for your review:

- The current submerged land lease sketch
- A potential configuration for the docks

- The 2017 Recreation Department Dock Fee Survey

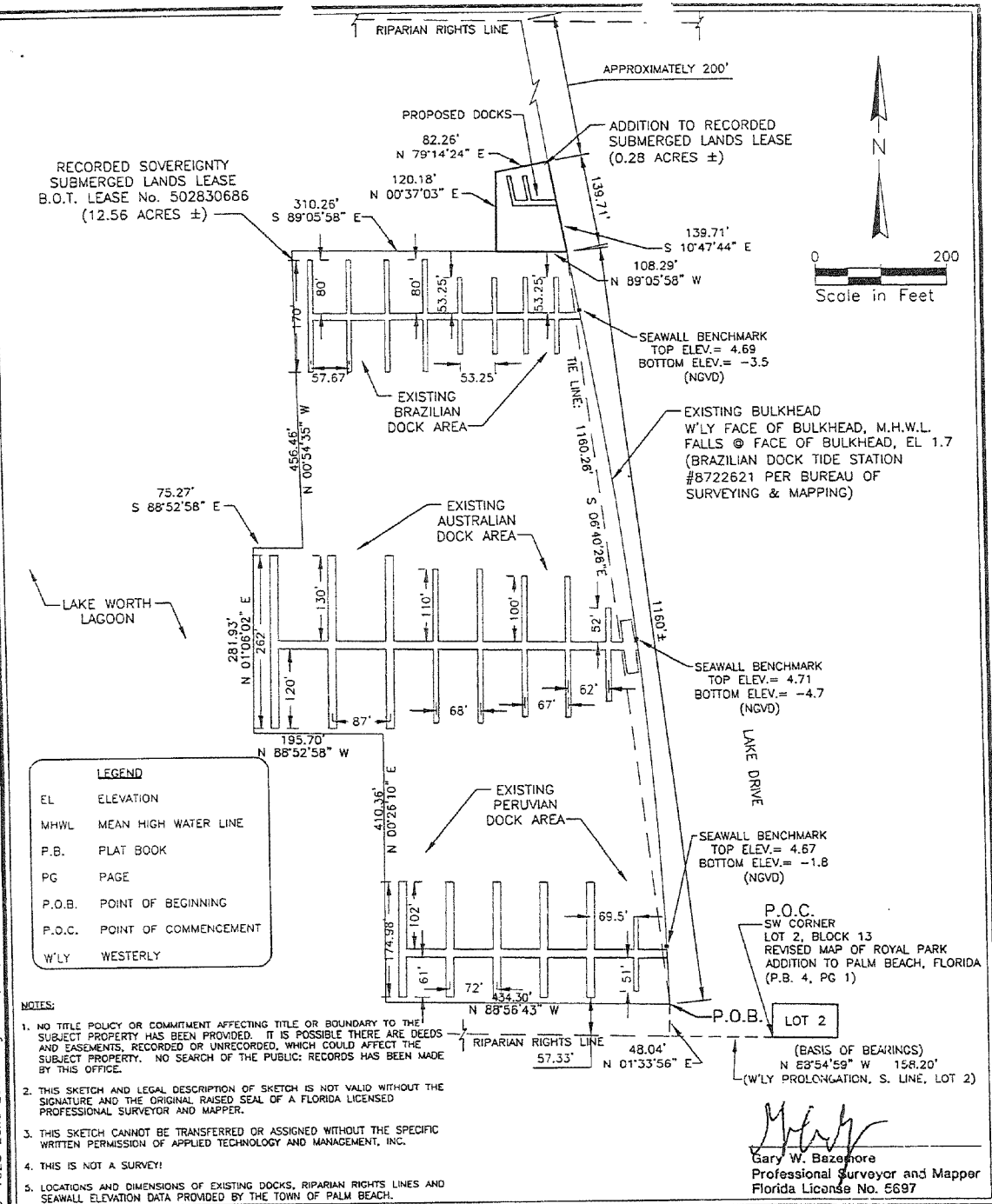
FUNDING/FISCAL IMPACT

Funding for the cost of the consultant to prepare a master plan for the town docks will be considered at the time the Town Council considers the rankings that result from the request for proposal process.

Attachments

cc: Beth Zickar, Director of Recreation
Jane Struder, Director of Finance
Mike Horn, Dockmaster
Adis Pedraza, Purchasing Agent

05-1023 Land Lease.dwg L1 9/19/05



1485 North Atlantic Ave., Suite 116 Cocoa Beach, Florida 32931 (321) 799-2332 Certificate of Authorization #LB7072	SKETCH OF ADDITION TO RECORDED SOVEREIGNTY SUBMERGED LANDS LEASE Town of Palm Beach Docks Police and Fire-Rescue Dock		REVISIONS	JOB NO: 05-1023	CHECKED BY: GWB
				DATE: AUG 2005	DRAWN BY: MKM
				SCALE: 1"=200'	SHEET: 2 of 3

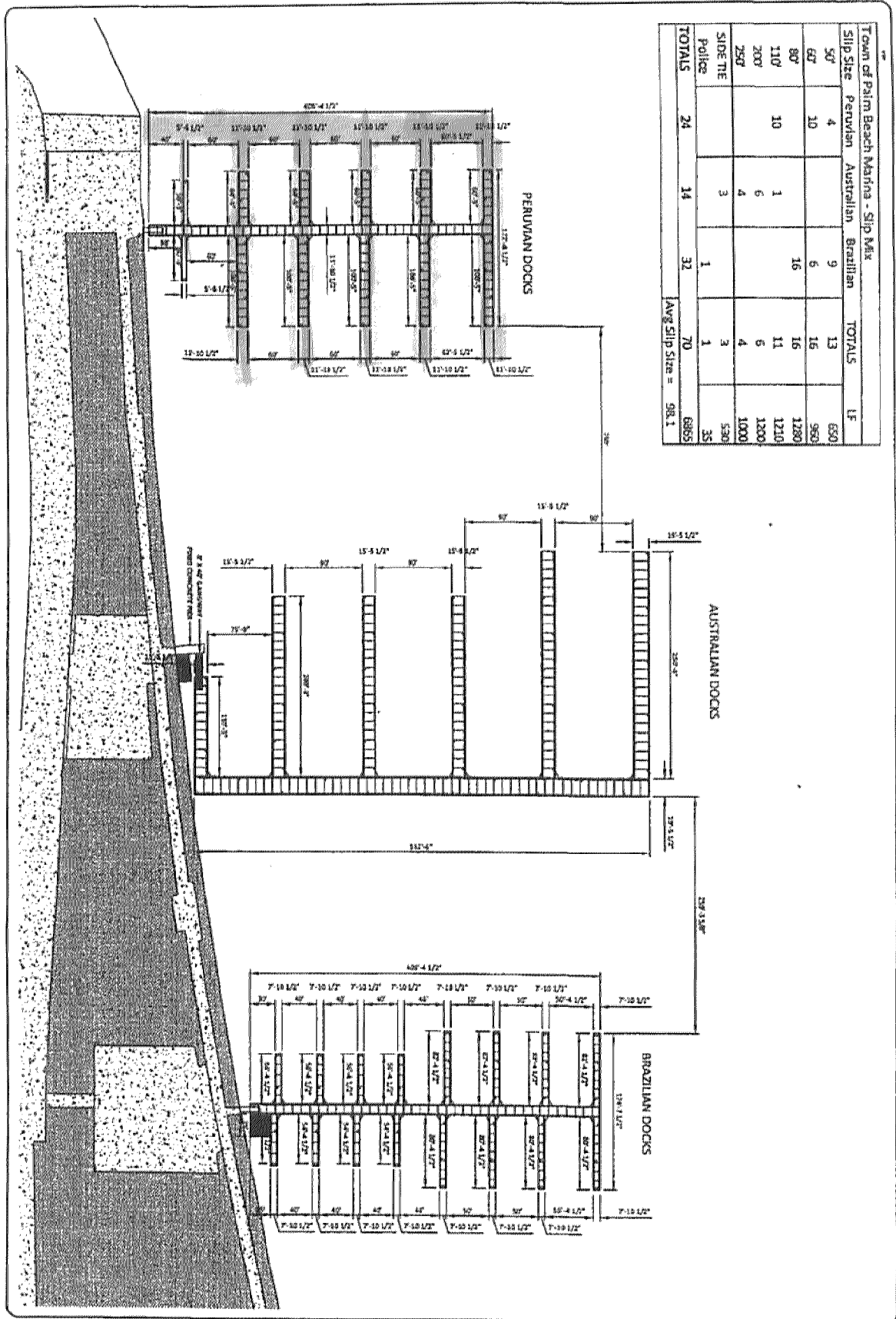


STATE OF FLORIDA - PALM BEACH COUNTY

I hereby certify that the foregoing is a true copy of the record in my office.

THIS DAY OF SEP 2005
SHARON R. BOCK
CLERK & COMPTROLLER
DEPUTY CLERK

Town of Palm Beach Marina - Slip Max					
Slip Size	Peruvian	Australian	Brazilian	TOTALS	LF
50'	4		9	13	650
60'	10		6	16	960
80'			16	16	1280
110'	10	1		11	1210
200'		6		6	1200
250'		4		4	1000
SIDE TIE		3	1	3	530
Police				1	35
TOTALS	24	14	32	70	6865
Avg Slip Size =					98.1



TOWN OF PALM BEACH MARINA
PALM BEACH, FLORIDA

PRELIMINARY LAYOUT
option 2

2017 RECREATION DEPARTMENT DOCKS SURVEY

Includes FY17 proposed rates for Town of Palm Beach and current rates at surveyed facilities.

ANNUAL LEASE (December 1 - November 30)												
Slip Size	50	60	80	100	110	120*	130*	150	160	172	262	
Town of Palm Beach	\$1.05	\$1.05	\$1.11	\$1.15	\$1.15	\$1.19/\$1.26	\$1.19/\$1.26	\$1.30	\$1.30	\$1.32	\$1.33	
Palm Harbor	\$1.00	\$1.00	\$1.25	\$1.40	\$1.50	\$1.50	\$1.50	\$2.10	\$2.10	\$2.10	\$2.10	
Old Port Cove	\$0.90	\$0.90	\$1.21	\$1.21	\$1.32	\$1.32	\$1.59	\$1.95	\$1.95	\$1.95	\$1.95	
Admirals Cove	\$0.84	\$0.84	\$0.96	\$0.96	\$0.96	\$0.96		\$0.96	\$0.96	N/A	N/A	
Rybovich South	Rates are based upon different factors including but not limited the repair work being completed.											
SEASONAL LEASE (November 1 - April 30)												
Slip Size	50	60	80	100	110	120*	130*	150	160	172	262	
Town of Palm Beach	\$1.71	\$1.71	\$1.82	\$1.88	\$1.88	\$1.95/\$2.06	\$1.95/\$2.06	\$2.11	\$2.11	\$2.15	\$2.17	
Palm Harbor	\$1.70	\$1.70	\$2.10	\$2.45	\$2.60	\$2.60	\$2.60	\$3.30	\$3.30	\$3.30	\$3.30	
Old Port Cove	\$1.38	\$1.38	\$1.86	\$1.86	\$2.02	\$2.02	\$2.40	\$2.82	\$2.82	\$2.82	\$2.82	
Admirals Cove	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
Rybovich South	Rates are based upon different factors including but not limited the repair work being completed.											
TRANSIENT WINTER DAILY (November 1 - May 14)												
Slip Size	50	60	80	100	110	120*	130*	150	160	172	262	
Town of Palm Beach	\$3.14	\$3.14	\$3.16	\$3.29	\$3.29	\$3.50	\$3.50	\$3.58	\$3.58	\$3.64	\$3.66	
Palm Harbor	\$2.85	\$2.85	\$3.10	\$3.35	\$3.50	\$3.50	\$3.50	\$4.00	\$4.00	\$4.00	\$4.00	
Old Port Cove	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
Admirals Cove	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00	
Rybovich South	Rates are based upon different factors including but not limited the repair work being completed.											

TRANSIENT WINTER MONTHLY (November 1 - May 14)												
Slip Size	50	60	80	100	110	120*	130*	150	160	172	262	
Town of Palm Beach	\$2.16	\$2.16	\$2.21	\$2.29	\$2.29	\$2.38	\$2.38	\$2.45	\$2.45	\$2.50	\$2.52	
Palm Harbor	\$2.00	\$2.00	\$2.40	\$2.75	\$2.90	\$2.90	\$2.90	\$2.90	\$3.60	\$3.60	\$3.60	
Old Port Cove	\$1.60	\$1.60	\$2.15	\$2.15	\$2.33	\$2.33	\$2.75	\$3.10	\$3.10	\$3.10	\$3.10	
Admirals Cove	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
Rybovich South	Rates are based upon different factors including but not limited the repair work being completed.											

TRANSIENT SUMMER DAILY (May 15 - October 31)												
Slip Size	50	60	80	100	110	120*	130*	150	160	172	262	
Town of Palm Beach	\$1.66	\$1.66	\$1.80	\$1.87	\$1.87	\$1.98	\$1.98	\$2.04	\$2.04	\$2.05	\$2.06	
Palm Harbor	\$1.30	\$1.30	\$1.60	\$1.60	\$1.60	\$1.60	\$1.85	\$1.85	\$1.85	\$1.85	\$1.85	
Old Port Cove	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
Admirals Cove	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00	
Rybovich South	Rates are based upon different factors including but not limited the repair work being completed.											

TRANSIENT SUMMER MONTHLY (May 15 - October 31)												
Slip Size	50	60	80	100	110	120*	130*	150	160	172	262	
Town of Palm Beach	\$1.38	\$1.38	\$1.40	\$ 1.47	\$1.55	\$1.55	\$1.55	\$1.59	\$1.59	\$1.60	\$1.62	
Palm Harbor	\$0.85	\$0.85	\$1.05	\$1.15	\$1.25	\$1.25	\$1.75	N/A	\$1.75	\$1.75	\$1.75	
Old Port Cove	\$1.03	\$1.03	\$1.40	\$1.40	\$1.52	\$1.52	\$1.82	\$2.25	\$2.25	\$2.25	\$2.25	
Admirals Cove	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
Rybovich South	Rates are based upon different factors including but not limited the repair work being completed.											

Town of Palm Beach rates include up to 100 amps of power (200 amps for the Australian T-head slips). There is an additional charge of \$.25 pfpd (100 amp single phase). \$.40 pfpd (100 amp three phase 480v) and \$.70 pfpd (200 amp three phase 480v) for an additional cord.

single phase/three phase *

Palm Harbor, Old Port Cove, Rybovich and Admirals Cove do not include utilities as part of the per foot rate.

TOWN OF PALM BEACH

Town Council Meeting on: January 10, 2017

Section of Agenda

Regular Agenda - New Business

Agenda Title

RESOLUTION NO. 02-2017 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida Urging the Governor of the State of Florida, the South Florida Water Management District and the United States Fish and Wildlife Service To Work Cooperatively To Manage Exotics and Maintain The Arthur R. Marshall Loxahatchee National Wildlife Refuge.

TIME CERTAIN: 1:00 p.m.

Presenter

Thomas G. Bradford, Town Manager

ATTACHMENTS:

- ▣ **Cover Letter**
- ▣ **Resolution No. 02-2017**

A.R.M. Loxahatchee NWR Resolution Cover Sheet

Originally named Loxahatchee NWR, the Refuge was established in 1951 as mitigation for the creation of the Central and South Florida project. At the request of the state of Florida, Congress authorized the Army Corps of Engineers to design and construct a system of canals and impoundments to alleviate the often deadly flooding that occurred after hurricanes or major rain events. The Refuge is an overlay of water conservation area one (WCA-1) at the northeast end of the historic Everglades, primarily located in Palm Beach County. Since the South Florida Water Management District (SFWMD) had flowage easements over lands within WCA-1, a license agreement was agreed to between the federal government (USFWS) and two state agencies Florida DEP Division of State Lands and SFWMD for the Refuge to manage 143,238 acres within the surrounding 52 miles of levee. In order to have a land base from which to operate, the Service purchased in fee title 1223 acres of land along the east side. This is the current location of the refuge headquarters, visitor center and public use trails. Several years later, the Refuge acquired in fee title 1327 acres along the southwest levee known as Compartment D.

The License Agreement signed in 1951 was for 50 years with three automatic renewal periods of 15 years each. However, in 1999, the SFWMD notified the Refuge that they did not want to automatically renew the license agreement. They did not intend to cancel the agreement, rather they wanted to address many concerns, ranging from management to access to public use, and write a new agreement with new terms and conditions. Negotiations went on for a couple years with agreement reached for a new 50 year license agreement in July 2002. This included a set of performance measures for the first 15 years. Performance measures were taken from the refuge's Comprehensive Conservation Plan, signed in 2001. Thirteen performance measures were agreed to ranging from public use, to research, to invasive exotics control. The exotics control was clearly the most complicated and difficult measure to achieve. This was a primary concern for the SFWMD governing board.

The Refuge is all that remains of the historic northern portion of the Everglades. As such it is an integral part of the Everglades landscape and subject to three major challenges facing Everglades restoration: water quantity/timing/delivery, water quality, and invasives.

The current license agreement was signed in July 2002. The performance period is to run through July 2017. Of the thirteen performance measures, 12 have been met. The remaining performance measure, invasive exotic control has four species that are to be brought under maintenance control. For two of those species, Australian pine and Brazilian pepper, maintenance control has been achieved. The remaining two, Melaleuca and Lygodium have not. The bigger problem of the two is Lygodium.

Lygodium, also known as Old World Climbing Fern, is a delicate vine like plant that first arrived in South Florida as an ornamental for use in homeowner's gardens and landscapes. The plant reproduces by spores and requires a moist soil to germinate and structure to grow on. The Refuge has become the epicenter for this invasive because of its signature habitat, the tree islands. Off shore winds carry the spores west into the refuge where they germinate on the tree

islands and then grow on the vegetation and trees climbing up to and covering the crown of the trees. Control techniques and herbicide treatments were well studied and used for the other three invasives but *Lygodium* has unique challenges in the refuge. Compounding control efforts, where the other three species grow thick and by themselves, *Lygodium* grows on host native vegetation. The question has been how to effectively control the invasive but do as little damage as possible to native vegetation. Control techniques include manual labor (cutting and treating the vines), aerial application, prescribed fire and bio controls. Manual labor has an added problem in that spores are easily picked up on clothing, gear, and boats, and can be transported and deposited in other areas of the refuge or even off site. Access is also a major challenge encountered when controlling invasive species in the refuge interior. Airboats are the only way of traversing the landscape and there are many obstacles, such as tree islands, thick vegetation, and vastly varying water levels that limit and impede access.

The South Florida Water Management District (District) has been critical of the Fish and Wildlife Service (FWS) for years regarding invasive species control. FWS notified the District in 2015 that it was not going to meet the 2017 performance deadline. The primary factor has been the significant cost to treat *Lygodium*. Both the District and FWS agree that \$5 million for five years is needed to get *Lygodium* to maintenance control. However, the Refuge receives \$1.25 million in its base operating budget specifically for invasive species control. Although invasive species is a critical issue on the refuge, this is a significant nationwide problem. Yet, the USFWS works with a modest \$9 million budget for invasive species management, of which the Refuge receives on average 14 percent, to address management challenges throughout the Refuge System's more than 600 million acres.

The District has been concerned that the FWS has not asked for increased funding and in August 2016 sent the first notice of default to FWS threatening to terminate the license agreement unless the necessary funding needed is provided. The District believes they can do a better job of controlling *Lygodium*. They have published a Statement of Principles as to how they would manage the licensed lands if taken back.

Most conservation organizations are concerned that the District will instead manage WCA-1 as an impoundment, to capture storm water and for water supply. Their mission is water management, not fish and wildlife management which is the mission of FWS.

Although the Refuge has been criticized for exotics control, not meeting measures for *Lygodium* and *melaleuca* is acknowledged by refuge staff. The Refuge considers this one of its highest priorities, actively seeks funding opportunities, and is an active member in the south Florida exotics control community. However, the refuge identity should not be centered on exotics. The Refuge has:

- Actively managed the refuge interior for more than 50 years through the use of prescribed fire (more than 10,000 acres burned annually at a cost of \$30/acre, 184,114 acres since 2002) nowhere else in the Everglades is fire used as effectively to mimic historic fire occurrence.

- Three access points/boat ramps (east, southeast, northwest sections) to the Refuge for fishing, hunting, and wildlife observation. Maintains a 5 mile canoe/kayak trail for the public to experience the refuge interior. A total of 47 miles of levee are open to hiking and bicycling.
- The Refuge has two full time law enforcement officers to enforce refuge regulations, resource protection, and help provide a safe place for the public to experience the Everglades.
- An Everglades Program Team of senior ecologists and hydrologists work together with state partners to find effective ways to manage water levels during flood events to minimize impacts of phosphorous laden waters entering the refuge.
- Research in the refuge interior has been actively encouraged to promote an increased understanding of the Everglades. Since 2002, 251 special use permits for research have been issued by the refuge.
- The Refuge today is one of the few places the public can visit and observe the Comprehensive Everglades Restoration Plan in action. To reduce visitor impacts to the pristine refuge interior, the Refuge used 10 impoundments on fee title at refuge headquarters to create the four primary habitats found in the Everglades (wet prairies, saw grass, sloughs, and tree islands). The Refuge, in a partnership with SFWMD, provided two impoundments, 80 acres, for scientists to experiment with design and creation of tree islands. Proven techniques acquired will be applied in trying to restore tree islands in portions of the Everglades.
- Economic Impact of the Refuge (from 2011 Data, Banking on Nature Report) showed non-resident visitor expenditures were \$7.8 million or 76% of the total visitor expenditures which were \$10.3 million. For every \$1 of Refuge budgeted expenditures there is a \$6.81 total economic effect. Refuge visitation generates 107 jobs in the local community. Refuge visitation generates \$1.9 million in sales tax revenue.
- Since 2002, the Service has invested \$86.6 million on operations, maintenance and improvements;
- Since 2002, the Refuge has hosted 4,852,254 visitors from 50 states and 21 foreign countries; conducted teacher workshops for 8,513 teachers; conducted organized field trips for 74,773 Palm Beach County students; hosted 17 Everglades Day Festivals with more than 48,772 people attending.
- Situated in the backyard of Palm Beach County's 1.4 million residents, Arthur R Marshall Loxahatchee NWR has been designated one of 14 priority urban refuges by the USFWS, offering one of Florida's most crowded regions the chance to escape and enjoy an increasingly rare piece of "real Florida."

For more than sixty years the USFWS and the South Florida Water Management District (SFWMD) have worked together, and with other outstanding partners like the FWC, to conserve this incredible landscape. Revoking the license agreement between the USFWS and SFWMD will not solve the problems facing the refuge. The only solution to the extreme invasive species

infestation occurring at the refuge is collaboration. Instead of becoming a needless tragedy, the Arthur R. Marshall Loxahatchee National Wildlife Refuge has the opportunity to emerge as a leading example of successful conservation through collaborative partnership.

RESOLUTION NO. 02-2017

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA URGING THE GOVERNOR OF THE STATE OF FLORIDA, THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT AND THE UNITED STATES FISH AND WILDLIFE SERVICE TO WORK COOPERATIVELY TO MANAGE EXOTICS AND MAINTAIN THE ARTHUR R. MARSHALL LOXAHATCHEE NATIONAL WILDLIFE REFUGE.

WHEREAS, for over 60 years, pursuant to a license agreement with the South Florida Water Management District (SFWMD), the United States Fish and Wildlife Service (FWS) has managed 144,000 acres of state-owned land in western Palm Beach County, designated as the Arthur R. Marshall Loxahatchee National Wildlife Refuge (Refuge); and

WHEREAS, the Refuge was established in 1951 as mitigation for the creation of the Central and South Florida project, a system of canals and impoundments to alleviate the often deadly flooding that occurred after hurricanes or major rain events; and

WHEREAS, the Refuge is one of the last remnants of the historic northern Everglades and is an integral part of the Everglades landscape, providing critical habitat to 250 species of birds, with wading bird colonies of between 2000 and 13,000 active nests annually; and provides vital habitat for native fish and wildlife, and popular outdoor recreation including nature observation, fishing and hunting; and

WHEREAS, since 2002, the FWS has invested \$86.6. million on operations, maintenance and improvements in the Refuge and has hosted 4,852,254 visitors from 50 states and 21 foreign countries; conducted teacher workshops for 8,513 teachers; conducted organized field trips for 74,773 Palm Beach County students; hosted 17 Everglades Day Festivals with more than 48,772 people attending;

WHEREAS, the economic impact of the Refuge (Banking on Nature Report, 2011) is significant with visitor expenditures of \$10.3 million dollars annually, with every \$1 of Refuge budgeted expenditures providing a \$6.81 total economic benefit; and

WHEREAS, Refuge visitation generates 107 jobs in the local community and generates \$1.9 million in sales tax revenue; and

WHEREAS, the FWS has actively managed the Refuge for more than 50 years through the use of prescribed fire (more than 10,000 acres burned annually at a cost of \$30/acre, 184,114 acres since 2002) nowhere else in the Everglades is fire used as effectively to mimic historic fire occurrence; and

WHEREAS, the FWS has provided three access points/boat ramps to the Refuge for fishing, hunting, and wildlife observation, and maintains a 5 mile canoe/kayak trail for the public to experience the refuge interior; and

WHEREAS, 47 miles of levee surrounding the Refuge are open to hiking and bicycling; and

WHEREAS, the FWS provides law enforcement officers to enforce Refuge regulations, resource protection, and help provide a safe place for the public to experience the Everglades; and

WHEREAS, An Everglades Program Team of senior ecologists and hydrologists work together with state partners to find effective ways to manage water levels during flood events to minimize impacts of phosphorous laden waters entering the Refuge; and

WHEREAS, Research in the Refuge interior has been actively encouraged to promote an increased understanding of the Everglades, with 251 special use permits for research issued by the Refuge since 2002; and

WHEREAS, the Refuge provides one of the few places the public can visit and observe the Comprehensive Everglades Restoration Plan in action through a large-scale working model of the Everglades, including the four primary habitats (wet prairies, saw grass, sloughs, and tree islands) allowing scientists to experiment with design and creation of tree islands, among other work.

WHEREAS, the Refuge is situated in the backyard of Palm Beach County's 1.4 million residents, and has been designated one of 14 priority urban refuges by the FWS, offering one of Florida's most crowded regions the chance to escape and enjoy an increasingly rare piece of "real Florida."

WHEREAS, the SFWMD has initiated the process to revoke the license agreement between the SFWMD and the FWS on the grounds that FWS has failed to meet the schedule for controlling invasive climbing fern; and

WHEREAS, the control of invasive plants and animals is an issue for all conservation lands within the state of Florida and the nation and requires an effective partnership between the FWS and the SFWMD as well as other conservation entities; and

WHEREAS, termination of the Loxahatchee Refuge license agreement would eliminate federal wildlife protections on the 144,000 acre Refuge and would weaken legal protections for habitat for threatened Wood Storks and endangered Everglades Snail Kites; and

WHEREAS, the protection of wildlife is not within the core mission of the SFWMD and if the license agreement is terminated, the intensive wildlife management and conservation efforts of the FWS would cease. Instead, the SFWMD would manage the area as a Water Conservation Area which simply stores and supplies water; and

WHEREAS, cooperative efforts among all affected government entities are understood to be the most effective means of controlling invasive species; and

WHEREAS, terminating the license agreement with the FWS will not solve the challenge of controlling and combating invasive species in the Refuge but will transfer all costs of eradicating this invasive plant to the State; and

Whereas, the Refuge is a national treasure that protects wildlife, migratory birds and waterfowl and is under a federal consent decree to achieve water quality standards for a healthy Everglades, while providing water for communities in South Florida; and

WHEREAS, if the license agreement is revoked, it would have detrimental effects on the wildlife that depend on the Loxahatchee Refuge for survival, local Floridians, and all Americans to whom our nation's national wildlife refuges belong; and

WHEREAS, Florida was the first state in the nation to establish a National Wildlife Refuge, efforts should not be made to remove a National Wildlife Refuge.

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

Section 1: Recitals. The above recitals are true and correct and are incorporated herein by reference.

Section 2: The Town of Palm Beach urges the Governor of the State of Florida, the South Florida Water Management District and the United States Fish and Wildlife Service to continue their long-standing partnership and work cooperatively to manage exotics and preserve the Arthur R. Marshall Loxahatchee National Wildlife Refuge as a National Wildlife Refuge.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 10th day of January 2017.

Gail L. Coniglio, Mayor

Michael J. Pucillo, Town Council President

Richard M. Kleid, Council President Pro Tem

Bobbie Lindsay, Town Council Member

ATTEST:

Danielle H. Moore, Town Council Member

Susan A. Owens, MMC, Town Clerk

Margaret A. Zeidman, Town Council Member

TOWN OF PALM BEACH

Town Council Meeting on: January 10, 2017

Section of Agenda

Regular Agenda - New Business

Agenda Title

Coastal Update

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

a. Shore Line Update

Presenter

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting on: January 10, 2017

Section of Agenda

Regular Agenda - New Business

Agenda Title

Consideration of Request to Reserve Phipps Park's North Parking Lot for Private Use on February 11, 2017, and Approval Process for Future Related Requests.

Presenter

Susan A. Owens, MMC, Town Clerk

ATTACHMENTS:

- ▣ **Memorandum Dated December 28, 2016, from Susan A. Owens, MMC, Town Clerk**
- ▣ **Proposed Transportation Route**
- ▣ **Proposed Pick-Up Sites**
- ▣ **Proposed Drop-Off Sites**
- ▣ **Proposed Lighting Specifications**
- ▣ **Proposed Location of Lights**

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 10, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: Susan A. Owens, MMC, Town Clerk

Re: Request for Reservation of North Phipps Parking Lot

Date: December 28, 2016

STAFF RECOMMENDATION

Staff recommends that the Town Council consider the request of Mr. Schwarzman for the use of the north Phipps Parking Lot, and provided any special conditions of approval as deemed necessary. Staff is furthermore requesting that the Ordinances, Rules, and Standards Committee be authorized to review, and provide recommendations on, regulations and procedures for administering such requests in the future.

GENERAL INFORMATION

On November 30, 2016, the Town received a Special Event Permit Application from Stephen A. Schwarzman, requesting exclusive use of the north Phipps Parking Lot for the evening of Saturday, February 11, 2017. The proposed use of the lot is for overflow parking for an event being held at Mr. Schwarzman's residence. For an event to qualify as a special event under the Town Code, it must, "substantially inhibit the usual flow of pedestrian or vehicular travel" or "occupy any public area or building, resulting in preempted use by the general public" or which "deviate from the established use". Since the use of the parking lot is requested for after the Park and the lot are already closed to the general public, Staff has determined that the request would not result in any of these impacts; and, therefore, it does not fall under the definition of "Special Event" per the Town Code. Since the Code is silent on requests such as this, and there are no other established approval procedures for them, Staff is referring approval of the request to the Town Council.

Below is a summary of the specifics of this request, and attached is further backup for the Council's consideration:

- Event Date: Saturday, February 11, 2017 to Sunday, February 12, 2017
- Time Requested: 6-7pm for setup; 7pm-2am for active use of the lot; 2am-3am for clean up
- Lot to be Used By: Valets and minimal event staff parking
- Method of Attendee Transport: Four 12-passenger vans similar to Ford Econoline passenger vans
- Power Source for Proposed Supplemental Lighting: Self-powered
- Event Clean-up Arrangements: Clean-up Company
- Special Assignment Officers to be Hired: Six

As a part of the Special Event Permit Application process, the applicant has already paid a fee of \$150 to the Town and submitted a certificate of insurance in the amount of \$1,000,000. Since this fee will not fully cover the Town's administrative costs related to this request, and additional fee is recommended. As a starting point for discussion, Staff is recommending a use fee for the Lot that will be based upon the Lot's metered parking rate of \$5 per hour. Since there are 117 spaces in that lot, such a use fee would come to \$585 per hour times the number of hours approved by the Town Council.

If approved by the Town Council, the following additional conditions of approval are being recommended by Staff:

- Reimbursement for Staff time to make additional trips to re-open/re-close the lot before and after the event
- At least one of the six proposed Special Assignment Officers should be required to remain in the lot at all times to prevent unauthorized access to the park and the beach
- Supplemental lighting will be necessary throughout the event
- Activities should be limited to insured valet operations and minimal event Staff self-parking only

Since the Code is silent on requests such as this, Staff is also requesting that the Ordinances, Rules, and Standards Committee be authorized to review and provide recommendations on regulations and procedures for administering such requests in the future.

FUNDING/FISCAL IMPACT

The fiscal impacts will be dependent upon the conditions approved by the Town Council.

TOWN ATTORNEY REVIEW

This item has been approved by the Town Attorney.

Attachments

cc: Jay Boodheshwar, Deputy Town Manager
Kathleen Dominguez, Deputy Town Clerk
Kirk Blouin, Director of Public Safety
H. Paul Brazil, Director of Public Works

Hunters Island

1768 S Ocean Blvd

A1A

VAN WYCK

February 11, 2017

Private Event

Route 1768 to parking

Version 21



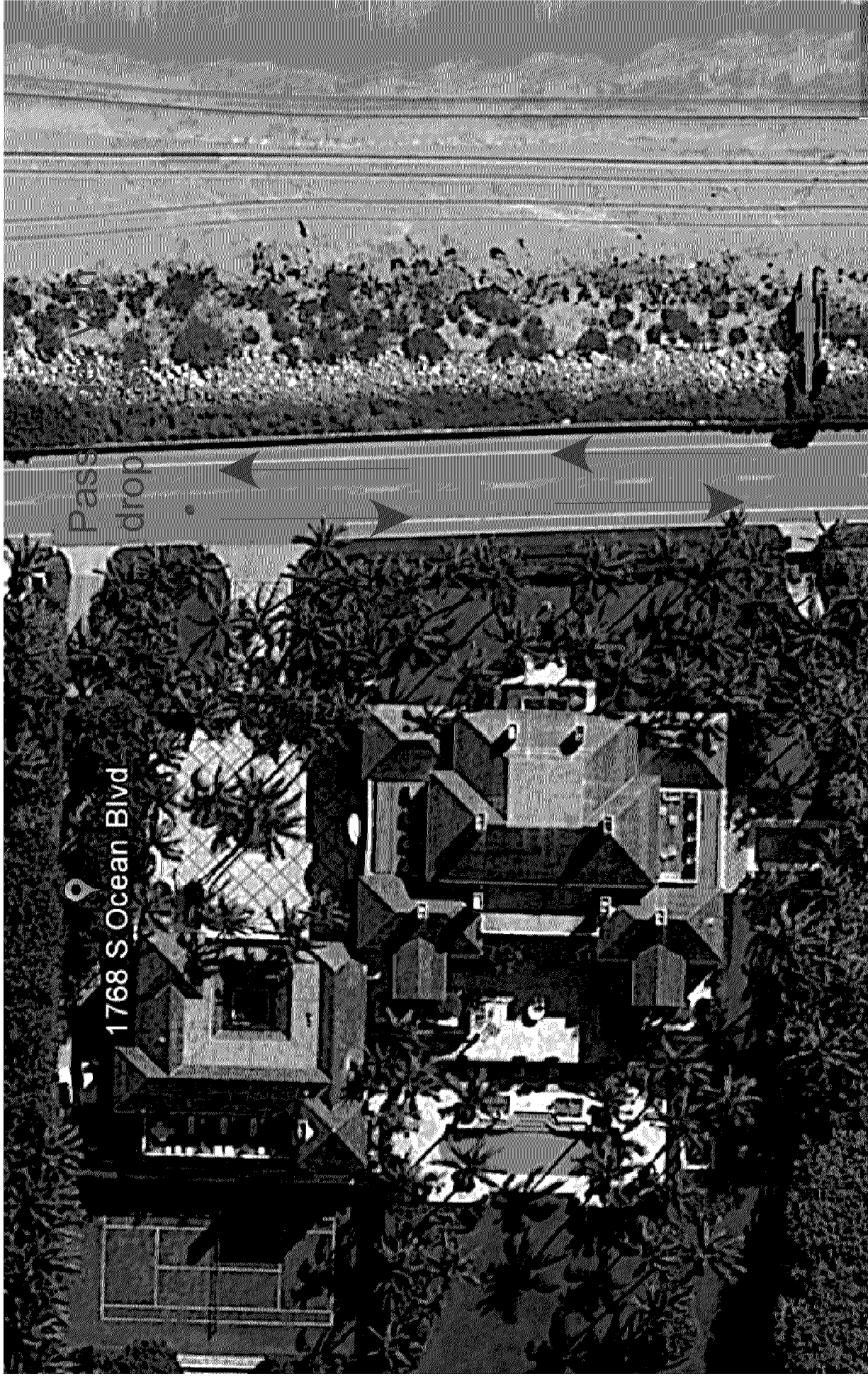
VAN WYCK

February 11, 2017

Private Event

Parking at Phipps Golf Club

Version 21



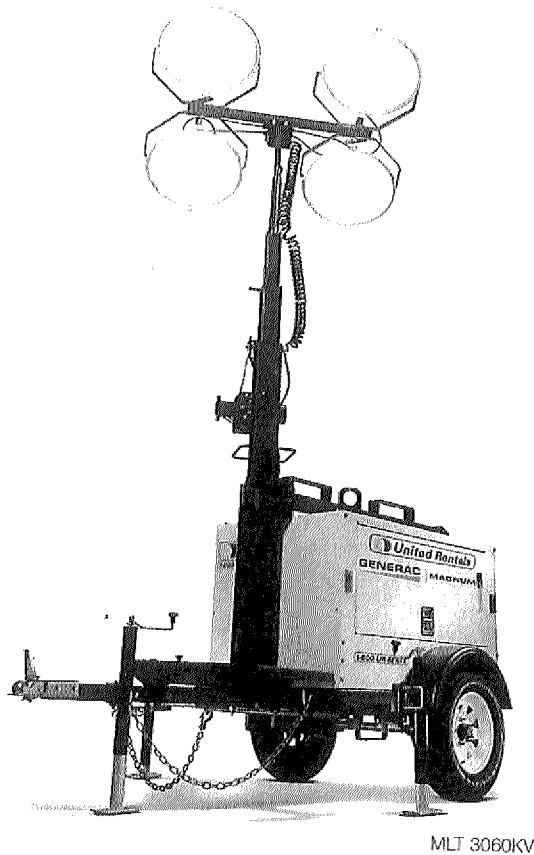
VAN WYCK

February 11, 2017

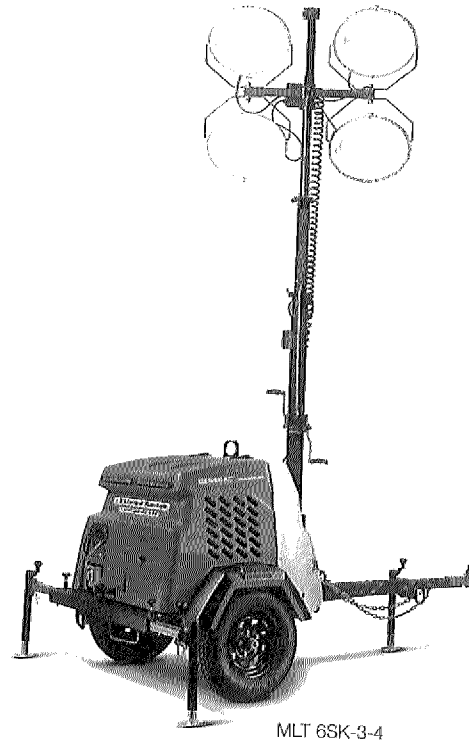
Private Event

Drop off at 1768

Version 21

GENERAC
 MAGNUM


MLT 3060KV



MLT 6SK-3-4

Power & HVAC

Pumps &
Fluid Handling trench Safety
& Shoring

(Air, Hand, Power)

Mobile Light Towers

- Diesel Powered
- 359° ground-rotational mast for total illumination on site
- 4-point outrigger stance designed to withstand up to 65 mph winds
- 120V & 240V convenience outlets supply additional power to the job site



Generac | Magnum 3000 and 4000 series mobile light towers provide flexible lighting and power solutions, with 440,000 maximum lumen output that illuminates up to 7 acres. These diesel fueled units are built on rugged full tubular frames with proven off-road durability. Set-up and operation is designed to be safe, user-friendly and efficient, with available additional options designed to keep you up and running in the harshest work environments.

Model Number	MLT3060M	MLT4060M (V)	MLT6SM	MLT5080
Manufacturer	Generac Mobile Products	Generac Mobile Products	Generac Mobile Products	Generac Mobile Products
Engine/Tier	Diesel/T4	Diesel/T4	Diesel/T4	Diesel/T4
Prime HP	10.5 hp @ 1800 rpm	10.5 hp @ 1800 rpm	10.5 hp @ 1800 rpm	15.4 hp @ 1800 rpm
Power (kW)	6	6	6	8
Est. Run Hours (Full Tank) - Full Load	64	64	90	80
Fuel Tank Capacity gal.	30	30	43	56
Mast Height Deployed	30'	30'	23'	30'
Light Fixtures	(4) 1,000W MH	(4) 1,000W MH	(4) 1,000W MH	(4) 1,000W MH
Total Lumens	440,000	440,000	440,000	440,000
Dimensions Stowed (in.)	170" x 49" x 68"	170" x 63" x 70"	118" x 57" x 101"	170 x 78 x 72
Cat. Class	320-4000	320-4000	320-4001	320-4005



3 Mobile light towers

Google

TOWN OF PALM BEACH

Town Council Meeting on: January 10, 2017

Section of Agenda

Regular Agenda - New Business

Agenda Title

Townwide Undergrounding Project Update

Presenter

Thomas G. Bradford, Town Manager

ATTACHMENTS:

- ▣ **Memorandum dated December 5, 2016, from Thomas G. Bradford, Town Manager**
- ▣ **Memorandum Dated November 15, 2016, from Thomas G. Bradford, Town Manager**

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 10, 2017

To: Mayor and Town Council

From: Thomas G. Bradford, Town Manager

Re: Update On The Townwide Undergrounding Project

Date: December 5, 2016

STAFF RECOMMENDATION

Staff recommends the Town Council receive this update on the Townwide Undergrounding Project and provide any direction deemed appropriate. In addition, staff requests that the Town Council consider the recommendation of the Underground Utilities Task Force to continue to pursue the use of CMAR, Best Value, but proceed with CMAR in Phase I of the Townwide Undergrounding Project if the use of CMAR, Best Value, cannot be concluded in a timely manner.

GENERAL INFORMATION

At their meeting on January 5 staff recommended that the Underground Utilities Task Force defer the finalization of the master plan to enable town consultants and staff to complete the master plan and associated cost estimate in a complete and proper manner. To present the master plan at this point in time as was originally intended would cause it to be incomplete and potentially misleading due to issues that have come to light during the month of December, 2016.

There are pending factors that will impact the timing and cost of the townwide underground project as follows:

- i. Hot Wire and FPL FiberNet have expressed interest in serving additional areas in town with fiber optic service. An RFI will give the town a better idea of the revenues, if any, to be derived from partnering with telecommunication service providers.
- ii. Goldmacher and Kosberg lawsuits - these legal actions may not be completed until May 2017. Until such time, the town cannot access voter approved general obligation bond financing. Numerous alternatives exist.
- iii. Alternative Finance Plan - we should explore the alternatives including line of credit, special assessment bonds, revenue bonds, internal financing, long-term bank financing and the alternative assessment financing proposed by Mr. Bottorff and Mr. Ross or combinations of the alternatives.

In addition, we should take this opportunity to explore revenue alternatives and different project management procedures and construction procurement procedures which include:

- i. Conduct an RFI in order to delineate new provider interest expressed by firms such as Hotwire and FPL FiberNet.
- ii. CMAR procurement research to determine if CMAR, Best Value, can be legally achieved.
- iii. Pole licensing agreements – ascertain if termination of these agreements should result in additional revenue to the town.
- iv. Other revenue enhancement alternatives, including, but not limited to, grants to facilitate the replacement of the antiquated overhead infrastructure serving the town.

Based upon the foregoing it was recommended that the following action items be considered by the UUTF:

- i. Seriously consider alternative finance plans
- ii. Initiate an assessment program as soon as possible
- iii. Authorize Magellan Advisors to proceed forth with an RFI.
- iv. Prepare a timeline for accomplishment of each of the above items

Construction manager at risk (CMAR) is a construction delivery methodology whereby the selection of the contractor is based upon the firm's qualifications and experience. CMAR, Best Value, is a variation of this delivery methodology wherein cost of the services to be provided by the contractor are also taken into account in addition to qualifications and experience. It is staff's preference to use the CMAR, Best Value option, but the Town Attorney and others have indicated that we should not use the format. However, we have learned that there are some cities in Florida that use CMAR, Best Value. Therefore, we would like additional time in order to determine if the town can make use of this construction method.

At their meeting on January 5 the UUTF considered the issues associated with CMAR and CMAR, Best Value, and recommended that the town pursue use of the CMAR, Best Value, construction method, but in the event the issues associated with CMAR, Best Value cannot be concluded in a timely manner the town should use CMAR in Phase I of the townwide underground project. If you recall, a similar recommendation was included as part of the December 13, 2016 Town Council agenda, but at my request the Town Council deferred the matter indefinitely. I requested this deferral to have more time to pursue the validity of CMAR, Best Value, as an option for Florida municipalities. I have attached that same backup to this memo for your reference as to the reasons for the use of CMAR as the preferred construction delivery method.

Cc: H. Paul Brazil, P. E., Director of Public Works
Patricia Strayer, Town Engineer
Jay Boodheshwar, Deputy Town Manager
Kevin Schanen, P.E., Kimley-Horn

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 13, 2016

TO: Mayor and Town Council

VIA : Thomas G. Bradford, Town Manager

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

RE: Authorization to Use Construction Management at Risk Services for the Town-wide Undergrounding Program

DATE: November 15, 2016

STAFF RECOMMENDATION

Town staff recommends that Town Council accept the recommendation of the Underground Utility Task Force to utilize Construction Management at Risk Services as the Construction Delivery Method for Town-wide Undergrounding.

GENERAL INFORMATION

Kimley-Horn and Associates (KHA) provided an extensive presentation of project delivery methods for the Town-wide Undergrounding Construction at the December 6, 2016 Undergrounding Utility Task Force meeting. KHA also provided to staff a memorandum dated November 2, 2016 which provides an analysis of the potential project delivery methods available for construction of the program which is attached. KHA's recommendation is to utilize the Construction Management at Risk (CMAR) method for all phases of construction. This recommendation is based on an evaluation of several factors which include budget, design, schedule, risk assessment, and level of expertise.

The following is an excerpt from the memorandum addressing the potential concern about the cost of utilizing CMAR:

We understand that the question may arise whether using a Construction Manager At-Risk will raise or lower the cost of the project. Having a very cost conscious group involved during the design process might lower the total cost of the project. However, by shifting the cost guarantee burden onto the CM, a case can be made that the actual savings may be less than promised if the CM is too conservative and risk-averse. There are studies that seem to indicate a substantial savings in cost growth (fewer change orders) through use of CMAR, but no good information on comparative initial cost for similar infrastructure projects. This is mostly due to the fact that Owner's do not build the exact same project twice under different delivery methods. While the cost savings potential exists, there is no guarantee that it will cost more or less than any other delivery system.

The CMAR project delivery method requires the least number of owner employees to manage the process because the CMAR can expand to meet the owner's staffing needs. While not reflected in the GMP, the reduced owner personnel required to manage the efforts of the CMAR is a cost

savings that needs to be considered

The CMAR process offers the Town "open book" transparency on how the construction price is developed. All of the sub-contractor bid proposals, CMAR overhead, project management, profit, and contingencies are clearly identified, shared with the Town, and agreed upon before the work begins. This also allows the Town to know the full budget for the project, unlike the DBB method where budget issues may not be discovered until well into the construction process.

As compared to other project delivery methods, the Town maintains a greater degree of control over the construction budget and use of any contingency funds. Change orders are inevitable in any underground infrastructure project. While upfront sub-surface investigation mitigates this risk, it cannot eliminate the risk. In a DBB project delivery, the Owner and Design professional work together to manage the rising project cost due to change orders on the project. In a CMAR project delivery, the Owner and Design professional work together to preserve the Construction Contingency which ultimately lowers the final cost of the project.

A significant cost advantage may be achievable through the Town's direct purchase of materials which can be streamlined through use of the CMAR procurement method. The CMAR can coordinate these efforts directly, retain responsibility for accepting delivery, storage and installation of these materials while achieving tax savings for the Town.

The Town's history with this delivery method has been positive with projects being completed on-time or ahead of schedule and under the negotiated GMP. When the cost of the project is less than the GMP, the contingency funds are returned to the Town.

Town staff is requesting the authorization to move forward with a Request for Qualifications for CMAR for the first phase of undergrounding construction. For future phases, we are investigating utilizing a Best Value Selection method for CMAR. With this method, both the cost of the work and qualifications are factors in the final selection of the CMAR. Weighted factors are applied to both cost and qualifications submitted by prospective CMAR's and the highest aggregate score determines the CMAR who will provide the Best Value to the Town.

The cost elements that could be considered in a Best Value selection process include:

- Preconstruction Services
- Construction Services
- General Conditions
- Recommended Contingency

The cost elements listed above are those costs related to the Construction Management activities only. The Total Construction Costs or the Guaranteed Maximum Price (GMP) would be developed after the CMAR has been selected and has competitively bid all the sub-trade work. The Best Value Selection process would be performed using a two-step process. A two-step process requires that prospective CMAR's first submit qualifications only. The evaluation committee then shortlists those proposers with the highest rankings and requests that those shortlisted proposers submit fee information. The fee information is then evaluated so the CMAR that provides the Best Value can be identified. Based on information provided by the Town Attorney, it may not be possible to use this method. Staff would like to continue to pursue the alternative and return to Town Council with additional information.

FUNDING/FISCAL IMPACT

At this time there is no fiscal impact associated with this approval. The selection recommendations will return to Town Council for approval.

TOWN ATTORNEY REVIEW

This item has been reviewed by the Town Attorney for legal form and sufficiency.

Attachment

cc: Jane Struder, Director of Finance
Eric B. Brown, P.E., Assistant Director of Public Works
Patricia Strayer, P.E., Town Engineer
Adis Pedraz.a, Purchasing Manager

MEMORANDUM

To: Patricia Strayer, P.E.

From: Kevin Schanen, P.E.
Kimley-Horn and Associates, Inc.

Date: November 7, 2016

Subject: Project Delivery Methods – Town-Wide Undergrounding of Utilities Program
KHA Project #044063188

There follows below our analysis of reasonable project delivery methods that are available for us by the Town in implementing the Undergrounding program. We look forward to discussing the analysis and recommendations with you prior to finalizing the recommendations for incorporation into the master plan.

1.0 Project Delivery Methods



A project delivery method is a system utilized by owners and public agencies to manage how a project will advance from concept to construction. Project delivery refers to the method of assigning risks and responsibilities to an entity for design and construction services and is different from project management. Project delivery methods can be grouped into several basic categories consisting of Design-Bid-Build (DBB), Construction Management at Risk (CMAR), Design-Build (DB), and Integrated Project Delivery (IPD) which is a new method that is gaining popularity in the vertical construction industry. Because the industry is relatively inexperienced with IPD, and it has not been commonly applied to the construction of public infrastructure, this summary will focus on DBB, CMAR, and DB while only providing a brief description of IPD. These delivery methods can be tailored or combined to meet the needs of the Town.

2.0 Project Delivery Method Selection Factors

There are several key factors that the Town must consider when choosing a project delivery and contracting strategy to execute the Undergrounding Project. These factors are summarized as follows:

- **Budget:** The Town has previously established an overall project budget of \$90M and plans to sell bonds to raise the necessary funds to execute the program. To establish budgetary costs and assess the risk of exceeding this budget, this master planning process will develop an updated opinion of probable cost for the program. This will assist the Town in properly planning to manage this risk.
- **Design:** The design must meet the needs and vision of the Town. For the undergrounding project, the design team is made up of a various entities including the Utility Owners who will design and ultimately own their respective infrastructure portion of the project. These entities include:

- *Kimley-Horn (Conduit Routing, Town owned and maintained infrastructure, such as sanitary and drainage improvements, and watermain improvements that will be ultimately owned and maintained by the City of West Palm Beach);*
- *Florida Power & Light (Electrical Infrastructure);*
- *AT&T (Telephone and Communications); and*
- *Comcast (Cable Television and Communications).*

The Town has varying degrees of control over these entities. For example, the Town has a great degree of control over the Kimley-Horn design team due to the contractual relationship between these two entities. However, the Town has much less control over Florida Power & Light, AT&T, and Comcast. These varying degrees of control create an element of risk that must be considered when developing an overall schedule for the project.

The various types of work in a specific phase may also play a role in recommending a delivery method. For example, if a construction phase requires a small number of trades to execute the scope of work, it is inherently easier to coordinate the activities between the various contractors. This type of project may be easier to execute through a traditional design, bid, build process. On the other hand, when multiple trades and disciplines are required to execute the work and significant coordination is required between each trade to appropriately schedule the activities in order to maintain schedule and budget, CMAR may be a more effective project delivery mechanism.

Ultimately, the design documents must provide an appropriate level of detail to properly communicate the project requirements to the construction team. This level of detail can vary based on the Project Delivery method selected.

- **Schedule:** The Town places a high priority on schedule. The Town has a highly seasonal population and many residents are away between May and November. This provides an opportunity to perform highly disruptive work in the road rights of way when traffic volumes are lower. When construction schedules are extended into the winter months (December – April), the disruptions to traffic can be extreme causing the roadway level of service to completely fail.

Because the undergrounding program is a multi-year, multi-phase program, significant schedule delays in any one phase may create a domino effect that could effectively delay subsequent phases. This would not only extend the program but could also increase project costs due to inflation and increased labor rates.

Therefore, schedule will be given a high priority when considering Project Delivery Methods.

- **Risk Assessment:** There are inherent risks in any construction project. However, those risks can increase when the size, budget, and duration of the project increases. It is important that a risk assessment be performed during the planning phase of the project so that risks can be appropriately understood and allocated amongst the parties involved. In general, risk should be allocated to the party who has the best ability to exercise control over the risk. Each project delivery method assigns risk to the various parties differently. The Town will need to consider the level of risk it is willing to accept when selecting a project delivery method.

- **Level of Expertise:** The Town's level of expertise and experience with the various delivery methods also plays a role in recommending an appropriate delivery method for the project. The Town's ability to manage the project construction in-house can also influence the selection of a project delivery method. Our understanding is that the Town is in the process of searching for a Project/Construction Coordinator to assist in the execution of the undergrounding project. This role will increase the Town's ability to exercise a greater degree of management control over the project and may influence the recommended delivery methods.

3.0 Overview of Project Delivery Methods

The following provides descriptions and a summary of the advantages and disadvantages of the various project delivery methods available to the Town for project execution.

3.1 Design-Bid-Build (DBB)



Design-Bid-Build is the most common and widely used project delivery method in the United States. The process involves executing the project in three sequential phases: Design, Procurement (Bidding), and Construction. The designer prepares the construction plans and specifications for use in the procurement process. For the Town's undergrounding project, the construction documents will consist of drawings and specifications prepared by Kimley-Horn, FP&L, AT&T, and Comcast. The project is then advertised for public bidding and price proposals are obtained from interested members of the contracting community. The Town is familiar with this process and has standard contracting language developed to execute construction projects using this delivery method. The selection process is usually the lowest responsive and responsible bidder under this delivery method. The contractor who submits the lowest price, has demonstrated that he meets the minimum qualifications set forth in the bid documents, and has properly prepared the bid proposal package per the instructions will be awarded the project.

The following is a summary of the advantages and disadvantages of the DBB project delivery method:

Advantages:

- This method is well understood by the Town and has well-established and clearly defined roles for the parties involved.
- This method is the most common approach for public owners having to comply with local, state or federal procurement statutes. The Town's procurement department already has standard contracts and guidelines in place to facilitate this method.
- The Town has a great degree of control over the process due to their control over many elements of the design prior to selection of the contractor. In this case, the Town exerts less control over the designs prepared by FP&L, AT&T, and Comcast or to changes to the design these entities may choose to make after the bidding process.

Disadvantages:

- The process may have a longer duration when compared to other delivery methods since all design work must be completed prior to selection and award of a construction contract.

- The absence of a contractor during the design process does not allow for the advantages that a contractor may provide through assessment of scheduling and cost ramifications of various elements of the design.
- The Town generally faces exposure to contractor change orders and claims over changes and unknown field conditions since the Town accepts liability for design in its contract with the contractor.
- This approach can create a more adversarial relationship between the involved parties rather than a cooperative one. This can lead to higher costs and longer schedule durations than originally anticipated.
- If the Town uses a fixed price contracting method, the contractor may pursue a lowest-cost approach to completing the project and the Town may receive a lower quality work product than expected for the price, requiring increased oversight and quality review by the Town and Design Team. If the Town uses the unit price bidding and compensation method, the contractor may try to increase the scope to maximize revenue from the contract, costing the Town more than expected.
- The absence of construction input into the project design may limit the opportunities for building in efficiencies that can reduce the cost and duration of the work. Important design decisions affecting both the types of materials specified and the means and methods of construction may be made without full consideration from a construction perspective.
- Technological and programmatic obsolescence could become a problem since this is a very large, long lasting project. This is mitigated somewhat by constructing the project in phases. However, changing technologies and the deployment of such technology by FP&L, AT&T, and/or Comcast during the construction process will put the Town at a disadvantage when negotiating these changes into the contract if and when they occur.

3.1.1 DBB Contracting and Procurement Methods

There are several types of contracting methods that can be used under the DBB project delivery type. A very common approach is the lump sum, or fixed price bid. This is commonly used in the vertical construction industry or for any project where quantities are not easily measured. The Town is accustomed to this method as well as the unit-price method, which is commonly employed in the horizontal construction industry. A complication that can arise in the administration of construction for undergrounding projects is the quantification of the extensive number of conduits of varying sizes that will be installed under the project. For this reason, the electrical undergrounding contracting industry is more accustomed to the fixed price, or lump sum bid, approach to procuring this type of work. This approach also shifts the responsibility for quantification to the contractor which reduces the Town's risk of quantity overruns (or under runs and the claim for lost profits) that may have occurred under a unit price approach for the same work.

The Town's procurement policy allows for the pre-qualification of contractors prior to accepting a sealed bid for any given project. This allows the Town to independently review the qualifications of a particular contractor for a given type of work. Pre-qualification provides the Town with a greater degree of confidence that the contractor is properly experienced, financially sound, and has the proper resources to perform a given project. Once a set of pre-qualified contractors are in place, a sealed bid can be requested from them for a specific project. The lowest responsive, responsible bidder would then be awarded the work.

In lieu of the pre-qualification process, the Town may choose to develop a "Best Value" system of contractor selection similar to that used by the City of West Palm Beach. In this method, contractors are evaluated both by qualifications and price. Weighted scores can be employed to evaluate the bid proposal and the bidder who has the best combination of price and qualifications at the conclusion of the scoring process would be awarded the project. This method involves the Town determining which bidder will provide the best value for their money and will be most likely to complete the project both on time and within budget, not necessarily the bidder that provided the lowest initial cost. Under this modified method of DBB, a higher emphasis is placed on experience with similar projects and provides extra points for those bidders whose qualifications exceed the minimum requirements. The advantage of this modified process is that the Town can use both quantitative (cost) and qualitative (experience) metrics to evaluate and select a contractor thereby reducing the risk that a poor performing contractor is awarded the work.

3.2 Construction Management at Risk (CMAR)



Construction Management at Risk (CMAR) is similar to DBB because the CMAR fulfills the role of general contractor during the construction phase. The "risk" in CMAR is that the Construction Manager holds the trade contracts and takes on the risk of performing the construction while guaranteeing the completion of the project for a negotiated price. This price is usually determined when the design is between 50 to 90 percent completed. The CMAR is usually hired by the Owner prior to the project design being completed. The Town has employed this method successfully on many other large infrastructure projects. In the Town's experience, the CMAR performs most of the work through subcontractors that are procured through a competitive bidding process very similar to DBB. Only the CMAR's fees are negotiated separately by the Town and those fees are a comparatively small portion of the overall construction cost. The central idea of CMAR is to get the advantage of price competition in the subcontract work packages combined with the qualifications-based selection of the GC as CMAR.

This delivery method is different from DBB in that the CMAR offers schedule, budget and constructability advice during the project planning and design phases, as well as advisory professional management assistance to the Town prior to construction. With CMAR project delivery, the construction manager and contractor are a hybrid of the traditional DBB roles. Another way to look at this is that the CMAR manages the construction of the project.

Having pre-construction Construction Manager advisory services can identify advantageous changes that can reduce project costs and/or allow construction of certain portions of the project to begin before the design is finalized. For example, the CMAR can bid out portions of the project with approved designs at any time, without having to wait for the entire design to be completed. The CMAR and owner can come to an agreement on a guaranteed maximum price (GMP) based on a partially completed design, which takes into account the cost to complete. Coming to an agreement early on in the project on preferred materials, equipment and project features can also be helpful in allowing the use performance specifications or reduced specifications rather than standard specifications. This can reduce design costs as plans developed for a DBB procurement generally need to be more detailed than those used for a CMAR procurement process.

The following is a summary of the advantages and disadvantages of the CMAR project delivery method:

Advantages:

- CMAR project delivery gives the Town the opportunity to incorporate a contractor's perspective and input into the planning and design phases of the project. Because the CMAR is involved in the design process it is much more difficult for them to make a claim related to the clarity of the plans or that they didn't fully understand the scope of work. This is why CMAR generally results in lower cost growth (fewer change orders) than other methods.
- The CMAR participates in Value Engineering and Constructability reviews which can lower costs and achieve schedule efficiency.
- Portions of the construction can be "fast-tracked" prior to fully completing the design.
- This project delivery method can arguably require the least number of owner employees because the CMAR can expand to meet the owner's staffing needs. The CMAR takes much of the burden of construction management off the Town staff and provides professional advisory management assistance during design. The CMAR may eliminate the need for the Town to hire additional staff to support the project.
- The Town maintains a greater degree of control over the construction budget as this is discussed throughout the project design. During construction, the Town would maintain the authority over whether monies from the Construction Contingency fund are expended.
- Companies that offer CMAR project delivery are generally concerned about their reputation since most CMAR's are selected on a qualifications basis. They are significantly motivated to perform well to uphold their reputation.
- The CMAR is far less likely to develop an adversarial relationship with the Town during the course of the project. This results in a construction team that is motivated to perform well for the Town, resolve issues quickly and cost effectively, and maintain a positive working relationship so they can continue working with the Town on future projects. In this manner, risk is better managed and claims/lawsuits are often fewer.
- The CMAR process offers the Town "open book" transparency on how the construction price is developed. All of the sub-contractor bid proposals, CMAR overhead, project management, profit, and contingencies are clearly identified, shared with the Town, and agreed upon before the work begins. This also allows the Town to know the full budget for the project, unlike the DBB method where budget issues may not be discovered until well into the construction process.
- Because the CMAR is ultimately responsible for the schedule and budget, they generally will bid elements of the work to pre-qualified, bondable subcontractors who the CMAR has confidence will construct their scopes of work successfully.
- The direct purchase of materials can be streamlined through use of the CMAR procurement method. The CMAR can request bids from material suppliers, coordinate and remain responsible for the quantities, material deliveries, and storage, and assist the Town's purchasing department in issuing Purchase Orders directly to the suppliers to realize the tax savings. This saves an enormous amount of coordination time and relieves the Town of the responsibility of material deliveries and timing, storage, supplier delays, shop drawing approvals, etc.
- The Town's history with this delivery method has been positive with projects being completed on-time or ahead of schedule and under the negotiated GMP. When the cost of the project is less than the GMP, the contingency funds are returned to the Town.

Disadvantages:

- To provide the best value to the Town, the proper selection of the CMAR is critical. This is a “people” business and getting the right combination of skills and expertise is essential for project success.
- Because the CMAR provides a GMP for the project, the CMAR is in an “at-risk” position during construction. Depending on what challenges are faced during construction, the contingencies developed during the GMP negotiation may not be sufficient to cover the costs of dealing with those challenges. Because the CMAR provided a GMP, they are responsible for overcoming the challenge regardless of the cost. This can put them in an adversarial role with the Town if this situation develops.
- Despite the fact that the CMAR will find it very difficult to pursue change orders from plan ambiguities because they were involved in the design process, they may become very aggressive on change orders due to changed conditions (increase in scope) or adverse weather impacts.

3.2.1 CMAR Contracting and Procurement Methods

CMAR is a two-step procurement process; pre-construction services and then construction services. A Request for Qualifications/Proposal (RFQ/RFP) to select the CMAR is the first part of the two-step process. Based on the qualifications submitted, the Town narrows the pool of potential contractors to a short list. The Town can then either select from the short list or invite the short listed CMAR's to make a presentation. The Town can then select the contractor based on who made the best presentation. A modified method can be used that scores the CMAR's based on a combination of their pre-construction services pricing, general conditions, and construction fee, combined with their qualifications.

Once the CMAR is selected, an initial agreement on a fixed fee for pre-Construction services is negotiated (unless this was part of the selection process). Pre-Construction services can include the following:

- Performance of quantity surveys
- Value Engineering
- Suggestions regarding constructability and methods
- Development of a detailed construction schedule
- Suggestions regarding cost reductions
- Participation in Public Outreach
- Development of an initial Opinion of Construction Cost
- Development of the Final GMP after completion of the 90% construction documents which includes the subcontractor bidding process.

The GMP for the project will consist of the following elements:

- Complete quantity survey for the project
- Public advertisement for the subcontractor bids
- Prequalification of the subcontractors
- Analysis of all subcontractor bids to eliminate gaps and incomplete bids
- A detailed construction schedule

- Itemized breakdown of all direct costs, general conditions, CMAR management fees, overhead and profit, and the Owner's contingency

The GMP is presented to the Town in a bound document and the individual components are reviewed by Town staff and the Design Team consultants. Comments are made to the CMAR and the price is adjusted until a final agreement is reached.

Should the GMP be accepted, the second step in the two-step procurement process commences. This is the Construction Phase. The CMAR Performs all the duties that a General Contractor would under a traditional DBB procurement. Additionally, the CMAR also performs the following services:

- Conducts and arranges all meetings for the project including agenda development and minutes distribution
- Schedules and coordinates the work
- Tracks and provides a log of Contingency Use Directives (CUD's)
- Provides executive monthly reports regarding the project progress
- Participates in Public Outreach activities, including the roll of "Project Liaison" which has been proven to be especially beneficial to the Town on past projects.

3.3 Design-Build (DB)

The Design-Build (DB) delivery method has gained popularity and is sometimes seen by the industry as a solution to the limitations of the other project delivery methods. The DB delivery method is a service provided by a single entity that provides both the design and construction services. The main benefit is that the DB provides a single responsible party for the design and construction of conventional projects. DB combines engineering and construction services under one contract minimizing the disputes that the Town would normally handle. In DB, these become internal team disputes that may not involve the Town. Using the DB method, a preliminary scope of work and budgetary opinion of cost would be prepared by an independent consultant and the Town would then seek DB firms who would be responsible for the design and construction of the entire project.

The following is a summary of the advantages and disadvantages of the DB project delivery method:

Advantages:

- DB can theoretically deliver a project in a shorter amount of time than a conventional DBB because there is only one selection process (DB Team) instead of two (Design Team and Contractor)
- The Town will have one contract with one entity for both design and construction which simplifies contract administration
- Similar to CMAR, cost efficiencies can be realized because the contractor and designer work together throughout the entire project
- Change orders typically only occur due to changes to the original scope that are initiated by the Town
- Portions of the construction can be "fast-tracked" prior to fully completing the design

Disadvantages:

- The Town has significantly less control and involvement over a DB project than traditional DBB or CMAR
- Much of the schedule efficiency that DB can offer is hampered significantly by the design efforts and schedules of the utility owners on this project. Additionally, seasonal construction restrictions to minimize traffic impacts will also prevent maximum schedule efficiency from being achieved.
- To take full advantage of any shorter implementation benefits that DB offers, the Town must be highly responsive in its decision making
- The Town loses the benefit of the checks and balances that exist when contracting separately with independent design consultants and a general contractor or CMAR
- May be problematic when there is a requirement for multiple agency design approvals such as Landmarks and ARCOM
- There is a risk that an adversarial relationship could develop if the quality of the project is not what was expected by the Town. Under this delivery method, the design team works directly for the contractor and may not have the best interest of the Town in mind.

3.3.1 DB Contracting and Procurement Methods

There are several alternatives to contracting and procuring DB services. Contracting can be through a fixed price sum agreement similar to DBB or, like the CMAR delivery method, through a pre-construction fee and GMP development process.

The procurement process is usually a two-step process. The first step is issuance of an RFQ and the submittal of qualifications by prospective DB teams. The Owner would then establish a short list of the best qualified teams to then submit a cost and technical proposal to the Owner. The cost and technical proposal usually contains any technical innovations developed by the DB Team along with schedule and any other pertinent details related to the design and construction process. In some cases, Owners find it beneficial to produce "Bridging Documents" that are prepared by an independent consultant. The Bridging Documents provide detailed information related to the quality and function of the desired project. They can also contain any schedule or design constraints that may otherwise be unknown to a DB Team. These documents can reduce the risk that the Owner does not receive what they initially thought they would at the onset of the project.

Once the cost and technical proposals are received by the Owner from the DB Teams, a DB Team can be selected based on a combination of pricing, approach and qualifications.

3.4 Integrated Project Delivery (IPD)

Integrated Project Delivery (IPD) is a relatively new in the United States and not many projects have been delivered using this method. IPD requires collaboration between the primary parties to share the risk and responsibility for project delivery. In a contractual sense, the Owner, Contractor and Designer are all parties in a multi-party agreement to create a team-based approach whose goal is to maximize collaboration and efficiency. Compensation typically consists of three components: reimbursement to cover costs, incentive for achieving desired budgetary goals, and rewards for accomplishing set project goals.

There is very little industry experience with this method. We are not aware of it ever being used in the public sector or on horizontal infrastructure projects. It is also not currently an approved method of

contracting under the Town's procurement guidelines. We are also not aware of any contractors within the undergrounding industry that are both experienced with this method or advocating for its use. Therefore, we have not considered it as a viable alternative for delivery of any phase of this program.

4.0 Delivery Methods Used by Local Municipalities

In developing our recommendations, we also reviewed how other local municipalities delivered their overhead to underground utility conversion projects. The table below provides a summary:

<i>Municipality</i>	<i>Project Delivery Method Used</i>
Town of Jupiter Island	DBB
Jupiter Inlet Colony	DBB
Gulfstream	DBB
Hollywood	CMAR
Pompano	CMAR
Lake Worth (10 th Ave. and 6 th Ave.)	DB
Palm Beach (Worth Ave.)	CMAR
Palm Beach (Everglades Island)	DBB
Palm Beach (Nightingale/La Puerta)	DBB
Palm Beach (Lake Towers)	CMAR
Hallandale	CMAR
Kissimmee	CMAR

As shown in the table above, a mix of Design-Bid-Build, Design-Build, and CM-at-Risk project delivery methods have been employed by various municipalities to deliver overhead to underground conversion projects.

5.0 Project Area Characteristics

During the development of the project phasing and sequencing plan, it became apparent that the project phases can be broken into groups based on the land use that is contained in each phase. The types of land uses in the Town generally consist of multi-family residential, mixed use commercial and residential, and single family residential. Understanding the level of complexity that may exist in any given phase can aid in the project delivery selection process. By grouping the land use classification, the diversity of major work elements contained in each phase, and the anticipated community impacts involved in working in any given phase area, this level of complexity can be more easily seen. Community impacts include a combination of factors such as impact to private property owners, traffic impacts, sufficient right of way to perform the construction operations (or lack thereof), impacts related to other infrastructure work beyond undergrounding to be performed, and the level of stakeholder coordination required to execute the work.

The below table summarizes this information:

<i>Project Area</i>	<i>Land Use</i>	<i>Major Work Elements</i>	<i>Community Impacts</i>
Phase 1 North	Single Family Residential	Undergrounding, Street Lighting, Watermain, Drainage	High
Phase 1 South	Multi-Family Residential	Undergrounding, Street Lighting	High
Phase 2 North	Single Family Residential	Undergrounding, Street Lighting, Watermain	High
Phase 2 South	Single Family Residential	Undergrounding, Street Lighting, Watermain	High
Phase 3 North	Single Family Residential	Undergrounding, Street Lighting, Watermain	High
Phase 3 South	Single Family Residential	Undergrounding, Street Lighting, Watermain	High
Phase 4 North	Single Family Residential	Undergrounding, Street Lighting, Watermain	High
Phase 4 South	Mixed-Use Commercial/Residential	Undergrounding, Street Lighting, Watermain	Very High
Phase 5 North	Single Family Residential	Undergrounding, Street Lighting, Watermain	High
Phase 5 South	Mixed-Use Commercial/Residential	Undergrounding, Street Lighting, Watermain, Signal Interconnect	Very High
Phase 6 North	Single Family Residential	Undergrounding, Street Lighting, Watermain	High
Phase 6 South	Mixed-Use Commercial/Residential	Undergrounding, Street Lighting, Watermain, Signal Interconnect	Very High
Phase 7 North	Single Family Residential	Undergrounding, Street Lighting, Watermain	High
Phase 7 South	Single Family/Multi-Family	Undergrounding, Street Lighting, Watermain	High
Phase 8	Mixed-Use Commercial/Residential	Undergrounding, Watermain	Very High

It is notable that the major work elements described above are those that are anticipated to be constructed in conjunction with the Undergrounding project by the contractor selected for each phase. There are other infrastructure projects that will occur concurrently with this program but they may occur either before or after the work in any given undergrounding phase area due to bond timing requirements and/or priority needs. ACIP project work performed by the Town and Gas main replacement work by FPUC are an examples of bond timing and priority needs, respectively.

6.0 Project Delivery Recommendations

The Town's undergrounding program is a very large and complex infrastructure program that will be implemented in a phased manner over the next eight to ten years. In developing recommendations for project delivery methods for each of those phases, the risks to schedule, level of service expectations, and cost must be carefully considered. If any single phase falters in any of those three areas of risk, the remaining phases of the program will be detrimentally affected. For this reason, the project delivery method must balance those risks while yielding the highest probability of project success.

It is our opinion that the CMAR method of project delivery yields the highest probability of success for delivering the various phases of the Town's Undergrounding Program. This is a method that is approved for use under the Town's procurement code and the Town staff has a history of success delivering large, complicated infrastructure projects under this method. The following sections reinforce this opinion based on the three areas of risk; schedule, level of service, and cost.

Schedule

The Town has placed a high priority on schedule. Because this is a phased program, a substantial delay in one phase can impact the ability to begin construction in a subsequent phase. These delays can create a domino effect that can impact the overall program schedule. This can lead to increased costs due to labor/material price increases over time. Additionally, there are technical reasons for performing certain construction tasks at certain times of the year. For example, highly disruptive roadway impacts are more desirable in the summer months because traffic volumes are at their lowest. Feeder transitions from the overhead to the underground system at the phase boundaries are much more desirable in the winter time when electrical demand is low. Performing these transitions during the hotter months can drive up costs because the process becomes more complicated to execute.

CMAR has the ability to fast-track certain activities. Working with the design team, elements of the project design can be completed early so construction of those elements can commence in an expedited manner. This can be advantageous for infrastructure elements such as water and drainage improvements that may need to be constructed in advance of the undergrounding infrastructure due to sequencing requirements.

By obtaining constructability comments and perspectives from the CMAR during the design process, the Town can achieve schedule efficiencies that are not available under traditional DBB. Reducing the schedule duration will reduce the cost of the general conditions on the project.

Level of Service

A major criterion in choosing a project delivery method for this program is the delivery method's ability to accommodate the needs of various stakeholders in a complex environment. The Town works very hard to protect the interests of the community. A high level of service and responsiveness to community needs, desires, and concerns is considered a very high priority. The undergrounding program is fundamentally different than most Town projects in that the work in this case is not confined to Town property or the public right of way. The Town's contractor will be required to perform work on just about every private property in the entire Town. It is imperative that the Town's contractor perform work on

private property in a manner that minimizes the disturbance to that property in order to reduce the risk of property owner claims against the Town.

The ability to deliver the level of service to the community that they expect best aligns with the CMAR method. Because the CMAR selection process has a qualifications component, their reputations are very important to them. They are highly motivated to do a good job for their client as they are typically desirous of winning the next project for the same client. Additionally, because the Town retains a great deal of control over the actions of the CMAR, when the need for change arises, as it often does with private individuals, it can easily be implemented by the CMAR.

Since the CMAR is ultimately responsible for the schedule and the budget, they will generally bid the trade elements to subcontractors who are qualified and bondable who the CMAR has confidence will construct their scopes of work successfully. This enhances the quality of the work and reduces the risk that either the design professional or utility owner will reject the work. Work that is rejected and must be redone can pose a significant schedule risk in addition to quality concerns.



Another advantage of this method is that the CMAR is far less likely to develop an adversarial relationship with the Town during the course of the project. This results in a construction team that is motivated to perform well for the Town, resolve issues quickly and cost effectively, and maintain a positive working relationship so they can continue working with the Town on future projects. For this reason, the risk of claims and lawsuits are often much lower for CMAR than other delivery methods. A lawsuit resulting from poor performance or claim on a project of this magnitude could have significant schedule and cost impacts.

Cost

We understand that the question may arise whether using a Construction Manager At-Risk will raise or lower the cost of the project. Having a very cost conscious group involved during the design process might lower the total cost of the project. However, by shifting the cost guarantee burden onto the CM, a case can be made that the actual savings may be less than promised if the CM is too conservative and risk-averse. There are studies that seem to indicate a substantial savings in cost growth (fewer change orders) through use of CMAR, but no good information on comparative initial cost for similar infrastructure projects. This is mostly due to the fact that Owner's do not build the exact same project twice under different delivery methods. While the cost savings potential exists, there is no guarantee that it will cost more or less than any other delivery system.

The CMAR project delivery method requires the least number of owner employees to manage the process because the CMAR can expand to meet the owner's staffing needs. While not reflected in the GMP, the reduced owner personnel required to manage the efforts of the CMAR is a cost savings that needs to be considered.



The CMAR process offers the Town "open book" transparency on how the construction price is developed. All of the sub-contractor bid proposals, CMAR overhead, project management, profit, and contingencies are clearly identified, shared with the Town, and agreed upon before the work begins. This also allows the Town to know the full budget for the project, unlike the DBB method where budget issues may not be discovered until well into the construction process.

As compared to other project delivery methods, the Town maintains a greater degree of control over the construction budget and use of any contingency funds. Change orders are inevitable in any underground infrastructure project. While upfront sub-surface investigation mitigates this risk, it cannot eliminate the risk. In a DBB project delivery, the Owner and Design professional work together to manage the rising project cost due to change orders on the project. In a CMAR project delivery, the Owner and Design professional work together to preserve the Construction Contingency which ultimately lowers the final cost of the project.

A significant cost advantage may be achievable through the Town's direct purchase of materials which can be streamlined through use of the CMAR procurement method. The CMAR can coordinate these efforts directly, retain responsibility for accepting delivery, storage and installation of these materials while achieving tax savings for the Town.

The Town's history with this delivery method has been positive with projects being completed on-time or ahead of schedule and under the negotiated GMP. When the cost of the project is less than the GMP, the contingency funds are returned to the Town.

CMAR Procurement Recommendations

There are multiple ways to select a CMAR to perform a given project. Historically, the Town has selected their CMAR contractors solely on a Qualifications-Based selection methodology. The CMAR then negotiates a pre-construction services fee, bids out the subcontracted trades, and assembles a final GMP which is negotiated and agreed upon by the Town and CMAR. This continues to be an option for CMAR selection but it is not the only avenue that a public agency has to make such a selection.

Another method that could be employed by the Town to select the CMAR is the Best Value Selection method. With this method, both the cost of the work and qualifications are factors in the final selection of the CMAR. Weighted factors are applied to both cost and qualifications submitted by prospective CMAR's and the highest aggregate score determines the CMAR who will provide the Best Value to the Town.

The cost elements that could be considered in a Best Value selection process include:

- Preconstruction Services
- Construction Services
- Post Construction Services (if needed)
- General Conditions
- Recommended Contingency

It is important to note that the cost elements listed above are those costs related to the Construction Management activities only. The Total Construction Costs (GMP) would be developed after the CMAR has been selected and has competitively bid all the sub-trade work. The Best Value Selection process can be performed through either a one-step process or a two-step process at the discretion of the Town. A one-step process requires prospective CMAR's to submit qualifications and fees concurrently. Typically, during the evaluation period of a one-step process CMAR fees are submitted in a separately

sealed envelope and scored after the qualifications based rankings have been finalized. A two-step process requires that prospective CMAR's first submit qualifications only. The evaluation committee then shortlists those proposers with the highest rankings and requests that those shortlisted proposers submit fee information. The fee information is then evaluated so the CMAR that provides the Best Value can be identified. Depending on the time available to select a CMAR, a one or two step process can be used to achieve the same result.

If the Town were to decide to pursue the Best Value Selection Method, we recommend that the Procurement Department and Town Attorney review and determine whether this method is acceptable based on the Town's procurement code and any other applicable state regulations.

Another resource the Town has available to assist in GMP/Contract Negotiations with the selected CMAR is the use of an expert in the field of construction to aid in the negotiation. The Town has already established a relationship with such an expert (Peter Brandt) and could request his involvement during this process to further ensure that the terms and fee offered by the CMAR are fair and equitable to the Town.

References

An Owner's Guide to Project Delivery Methods, The Construction Management Association of America, 2012.

Primer on Project Delivery, Second Edition. Developed by the Joint Committee of the American Institute of Architects and the Associated General Contractors of America, 2001.

The Risk in CM "At-Risk", by the Construction Management Association of America, 2002.

CM/GC Guidelines for Public Owners, second edition © 2007 by the Associated General Contractors of America and the National Association of State Facilities Administrators.

TOWN OF PALM BEACH

Town Council Meeting on: January 10, 2017

Section of Agenda

Regular Agenda - New Business

Agenda Title

Appeal of Right of Way Permit Denial for Wells Fargo Bank located at 255 S. County Road

Presenter

Thomas G. Bradford, Town Manager

ATTACHMENTS:

- ▣ **Memorandum Dated December 5, 2016, from Thomas G. Bradford, Town Manager**

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 10, 2017

To: Mayor and Town Council

From: Thomas G. Bradford, Town Manager

Re: Appeal of right-of-way permit denial for Wells Fargo Bank located at 255 South County Rd.

Date: December 5, 2016

STAFF RECOMMENDATION

Staff recommends the Town Council hear an appeal on behalf of Wells Fargo Bank relative to staff's denial of a requested right of way permit within the S. County Rd. right of way to enable work on the Wells Fargo Bank facade.

GENERAL INFORMATION

Anderson Construction, or another agent of Wells Fargo Bank, requested a right of way permit from the town to enable work on the western façade of Wells Fargo Bank located at 255 South County Rd. Staff denied the permit on the grounds that the time of year was inappropriate for the permit request. It is my understanding that the construction firm wishes to utilize a scaffolding system that would be within the right-of-way, but located on the sidewalk to enable work to be done and safely allow for pedestrians to traverse beneath the scaffolding system. It is also my understanding that the scaffolding system is movable from one location to the next as may be needed. The attorney for the bank and or construction company is Harvey Oyer. Mr. Oyer will address the Town Council in regard to the appeal of the denial of the right-of-way permit application.

Cc: H. Paul Brazil, PE. E., Director of public works
Patricia Strayer, P. E., Town engineer
Harvey Oyer, ESQ, Shutts & Bowen

TOWN OF PALM BEACH

Town Council Meeting on: January 10, 2017

Section of Agenda

Ordinances - Second Reading

Agenda Title

ORDINANCE NO. 26-2016 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 106, Streets, Sidewalks and Other Public Places; Article V, Sidewalks; Section 106-156, Regarding Duty to Maintain Sidewalks and Gutters Free of Debris, Encumbrances and Obstructions; Providing a Definition of Debris, Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.

Presenter

Jay Boodheshwar, Deputy Town Manager

ATTACHMENTS:

- ▣ **Ordinance No. 26-2016**

ORDINANCE NO. 26-2016

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 106, STREETS, SIDEWALKS AND OTHER PUBLIC PLACES; ARTICLE V, SIDEWALKS; SECTION 106-156, REGARDING DUTY TO MAINTAIN SIDEWALKS AND GUTTERS CLEAN AND FREE OF DEBRIS, ENCUMBRANCES AND OBSTRUCTIONS; PROVIDING A DEFINITION OF DEBRIS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Article V, Sidewalks, Section 106-156, provides that it shall be unlawful for any person owning and/or occupying any lot or part of a lot in the Town to omit to keep the abutting paved sidewalk free and clean of debris; and

WHEREAS, the word "debris" has not been defined in the ordinance; and

WHEREAS, it is important for the purposes of assuring public safety that the definition of debris include dirt, mold, algae and other unsightly buildup, as well as any other obstacles or objects which may be considered as an encumbrance or obstruction.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

Section 1. Article V, Sidewalks, Section 106-156, Duty to maintain sidewalks and gutters clean and free of debris, encumbrances and obstructions, is hereby amended to read as follows:

"Sec. 106-156. - Duty to maintain sidewalks and gutters clean and free of debris, encumbrances and obstructions.

A. It shall be unlawful for any person owning and/or occupying any lot or part of a lot in the town to omit to keep the abutting paved sidewalk clean and free of debris and the gutters adjoining the same free from encumbrance and obstruction. Responsibility for repair and maintenance of sidewalks located within town rights-of-way shall be the

responsibility of the town except where damage to same is caused by the abutting property owner, his agents or representatives.

B. For purposes of this section, debris is defined to include dirt, mold, algae or other unsightly buildup or any object which creates an encumbrance, obstruction or potential hazard.”

Section 2. Severability.

If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

Section 3. Repeal of Ordinances in Conflict.

All other ordinances of the Town of Palm Beach, Florida, or parts thereof which conflict with this or any part of this Ordinance are hereby repealed.

Section 4. Codification.

This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach.

Section 5. Effective Date.

This Ordinance shall take effect immediately upon its passage and approval, as provided by law.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this 13th day of December, 2016, and for second and final reading on this 10th day of January, 2017.

Gail L. Coniglio, Mayor

Michael J. Pucillo, Town Council President

Richard M. Kleid, Council President Pro Tem

Bobbie Lindsay, Town Council Member

ATTEST:

Danielle H. Moore, Town Council Member

Susan A. Owens, MMC, Town Clerk

Margaret A. Zeidman, Town Council Member

p:\docs\13156\00008\doc\1r22760.doc

TOWN OF PALM BEACH

Town Council Meeting on: January 10, 2017

Section of Agenda

Ordinances - Second Reading

Agenda Title

ORDINANCE NO. 27-2016 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Code Of Ordinances Of The Town Of Palm Beach At Chapter 66, Natural Resource Protection, Article I, In General, Section 66-2, Definitions So As To Add, Amend Or Delete Various Terms Related To Landscape And Irrigation Requirements; Amending Article Iv, Vegetation, Relating To Conditions For Landscape Design, Installation And Removal; Moving General Requirements For Landscape Design To A New Section 285; Modifying Section 66-286 Establishing Minimum Requirements For Shade Trees, Required Landscaping For Interior Parking Lots, Minimum Landscape Installation Requirements, Modifying Irrigation Standards And Requirements For Irrigation And Irrigation Systems, Providing For Requirements Related To The Submission Of Plans, And Landscape Installation And Removal Permits; Adding Section 66-287 Requiring That All Required Landscaping Be Approved By The Planning, Zoning And Building Department Prior To The Issuance Of Certificates Of Occupancy Or Completion; Adding A New Section 66-288 Requiring Protection Of Trees During Construction; Adding A New Section 66-289 Requiring Vegetation Maintenance; Adding A New Section 66-290 Providing Standards Related To Tree Trimming; Adding A New Section 66-291 Prohibiting Certain Practices Related To Tree Trimming; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

Presenter

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

ATTACHMENTS:

- ▣ **Ordinance No. 27-2016**

ORDINANCE NO. 27-2016

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH AT CHAPTER 66, NATURAL RESOURCE PROTECTION, ARTICLE I, IN GENERAL, SECTION 66-2, DEFINITIONS SO AS TO ADD, AMEND OR DELETE VARIOUS TERMS RELATED TO LANDSCAPE AND IRRIGATION REQUIREMENTS; AMENDING ARTICLE IV, VEGETATION, RELATING TO CONDITIONS FOR LANDSCAPE DESIGN, INSTALLATION AND REMOVAL; MOVING GENERAL REQUIREMENTS FOR LANDSCAPE DESIGN TO A NEW SECTION 285; MODIFYING SECTION 66-286 ESTABLISHING MINIMUM REQUIREMENTS FOR SHADE TREES, REQUIRED LANDSCAPING FOR INTERIOR PARKING LOTS, MINIMUM LANDSCAPE INSTALLATION REQUIREMENTS, MODIFYING IRRIGATION STANDARDS AND REQUIREMENTS FOR IRRIGATION AND IRRIGATION SYSTEMS, PROVIDING FOR REQUIREMENTS RELATED TO THE SUBMISSION OF PLANS, AND LANDSCAPE INSTALLATION AND REMOVAL PERMITS; ADDING SECTION 66-287 REQUIRING THAT ALL REQUIRED LANDSCAPING BE APPROVED BY THE PLANNING, ZONING AND BUILDING DEPARTMENT PRIOR TO THE ISSUANCE OF CERTIFICATES OF OCCUPANCY OR COMPLETION; ADDING A NEW SECTION 66-288 REQUIRING PROTECTION OF TREES DURING CONSTRUCTION; ADDING A NEW SECTION 66-289 REQUIRING VEGETATION MAINTENANCE; ADDING A NEW SECTION 66-290 PROVIDING STANDARDS RELATED TO TREE TRIMMING; ADDING A NEW SECTION 66-291 PROHIBITING CERTAIN PRACTICES RELATED TO TREE TRIMMING; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Town Council determined that a comprehensive review of the Town's Code of Ordinances was desirable; and

WHEREAS, Staff reviewed the sections of Chapter 66 related to landscaping and irrigation requirements, and reported its findings to the Ordinance Rules and Standards Committee, and

WHEREAS, it was determined beneficial to institute a landscape installation permit procedure to ensure that approvals by the Town Council, ARCOM and LPC were being implemented in perpetuity for the benefit of applicants, neighbors and the community in general, and that the costs for those reviews and inspections were recovered; and

WHEREAS, it was determined that significant benefit to the community would be derived by strengthening existing provisions related to water conservation, maintenance of trees and other landscaping, and instituting design principles for landscaping and irrigation based on current conservation initiatives; and

WHEREAS, it was determined that a reduction in the requirements for a waiver from watering requirements would promote more utilization of weather-based irrigation systems.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALMBEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

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

Section 2. The code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 66, Natural Resource Protection; Article I, In General; Section 66-2, Definitions, to read as follows:

“Sec. 66-2. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alter or alteration of stormwater systems means work done on a stormwater management system other than that necessary to maintain the system's original design and function.

Alter or alteration of vegetation means anything other than trimming of vegetation, including but not limited to, trampling, crushing, breaking, digging up, or excessive cutting of roots, stems, or branches. *Antitranspirant* means a protective coating, generally applied to plant materials prior to or immediately after transplanting, that reduces water loss through the leaf surface.

Buffer, perimeter landscape is an area of flat ground at grade or bermed land which is set aside along the perimeters of a parcel of land in which landscaping is required to provide an aesthetic transition between adjacent plots to eliminate or reduce adverse environmental impact, and incompatible land use impacts.

Cistern means an underground container that is used for collecting and storing rainwater.

Clear trunk when referring to palms means grey wood and sheath, boot, nut or other growth above the grey wood but does not include the fronds.

Cultivated landscape area means planted areas that are frequently maintained by mowing, irrigating, pruning, fertilizing, etc.

Curb means Type D or Type F curbing that border along the edge of a roadway, path, etc. typically constructed of concrete which may perform any one or more of the following functions:

- (A) forms a structural confinement of the road's edge, parking island and medians;
- (B) may be raised to prevent vehicular traffic from leaving the road surface; and
- (C) provides a channel to collect and direct rainfall runoff from the road surface.

DSH means diameter at standard height (4.5 feet or 1.37 meters) measured from the top of rootball

Detention means the collection and storage of surface water for subsequent gradual discharge.

Dune means a hill or ridge of windblown sand and marine deposits formed by action of the wind and water, often stabilized by vegetation indigenous to this formation.

Erosion and sediment control plan means a plan for the control of soil erosion, sedimentation of waters and sediment related pollutants, and stormwater runoff resulting from land disturbing activity. The town may require the party responsible for carrying out the plan to submit monitoring reports, as deemed necessary, to determine whether the measures required by the approved plan are being properly performed.

Essential element means any element of a landscape plan which is determined by either the Architectural or Landmark Preservation Commission as being mandatory and upon which an approval is predicated. Changes to essential elements cannot be made without approval from the respective Commission. Examples of essential elements include, but are not limited to, buffers, screening, trees, and palms.

Grey wood and clear wood means the portion of a palm trunk which is mature hardwood measured from the top of the rootball to the base of the green terminal growth, sheath, nut or boot. Refer to Sec. 66-284 Diagram A.

Ground cover means plants, other than turf grass, normally reaching an average maximum height of not more than 24 inches at maturity.

Hat-racking means the removal of main stems, tops of trees, or a significant percentage of tree canopy, generally by cross-cutting the main stem(s) or leaders, leaving stubs.

Hedge means a dense row of regularly spaced shrubs planted to form a continuous, unbroken visual screen.

Impervious surface means a surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water. It includes but is not limited to semi-impervious surfaces such as compacted clay, as well as most conventionally surfaced streets, roofs, sidewalks, parking lots, and other similar structures.

Irrigation system means a permanent, artificial watering system designed to transport and distribute water to plants.

Landscape/landscaping means the following:

(A) When used as a noun, this term shall mean living plant materials such as beautification strips, floral installations, hedges, sod, grasses, groundcover, shrubs, vines, trees or palms and nonliving durable materials commonly used in environmental design such as, but not limited to, walls or fences, aesthetic grading or mounding, but excluding pavers, paving, artificial turf, turf block, rocks and structures.

(B) When used as a verb, this term shall mean the process of installing or planting materials commonly used in landscaping or environmental design.

Landscaped open space means open space which is covered and maintained with natural growth in a permeable soil.

Land disturbing activity means any land change that may result in soil erosion from water or wind and the movement of sediments and sediment related pollutants in waters, including but not limited to clearing, grading, excavating, transporting and filling of land.

Mangroves means any specimen of *Avicenna germinans* (black mangrove), *Laguncularia racemosa* (white mangrove), *Rhizophora mangle* (red mangrove), and *Conocarpus erectus* (buttonwood mangrove), dead or alive, regardless of size.

Moderate drought tolerant means vegetation that requires supplemental irrigation during extreme dry periods to maintain attractive appearance.

Mulch means organic, arsenic free material such as wood chips, pine straw or bark placed on the soil to reduce evaporation, prevent soil erosion, control weeds and buffer soil temperature.

Multi-trunk tree is a tree that has a minimum of three trunks with no more than five trunks of equal diameters originating from the ground and with angles no greater than forty-five (45) degrees with diameter of at least 1 ½ inches measured at DSH.

Native habitat means habitat that predominantly consists of or is used by those communities of plants, animals, and other flora and fauna which occur indigenously on the land, in the soil, or in the water.

Native plant community is a natural association of plants dominated by one or more prominent native plant species, or a characteristic physical attribute as indicated by the Town of Palm Beach.

Native plant species shall be the plant species indigenous to the ecological communities of South Florida, as indicated as native to South Florida by the University of Florida in the Atlas of Vascular Plants, or that can be scientifically documented to be native to South Florida.

Native shoreline vegetation means vegetation that occurs indigenously on the land, in the soil, or in the water.

Opaque: obscure as to be visually unintelligible.

Overall height of a tree means the height measured from the ground to the bend of the topmost branch of the tree. Overall height of palm means the measurement from the ground to the bend of the topmost frond.

Pestilent exotic species means any specimen of Melaleuca (*Melaleuca quinquenervia*), Australian Pine (*Casuarina* spp.), or Brazilian Pepper (*Schinus terebinthifolius*), or other species referenced elsewhere in this chapter, regardless of size.

Planting means the placing on or setting into the ground of live plant material.

Planting soil/topsoil means a medium composed of equal portions of sand and muck. Palm planting soils means a medium composed of no more than 80 percent sand and remainder soil consisting of muck.

Prop roots means the structures originating below the lowest limbs of red mangroves, and which are also known as stilt roots.

Rainwater harvesting system means an active (e.g. cisterns) or passive system (e.g. rain barrels) designed to collect stormwater as a means of meeting water demands and reducing runoff and pollutant load. *Rate* means volume per unit of time.

Removal means to relocate, cut down, remove, or in any other manner destroy or cause vegetation to be destroyed.

Retention means the collection and storage of runoff without subsequent discharge to surface waters.

Runoff coefficient means ratio of the amount of rain that runs off a surface to that which falls on it; a factor from which runoff can be calculated.

Sediment means the mineral or organic particulate material that is in suspension or has settled in surface waters or groundwaters.

Sediment related pollutants means substances such as nutrients, pesticides, pathogens, and organic materials that are transmitted with, or in association with, sediment.

Shrub means a self-supporting, woody plant full to the ground with three or more branches produced from the ground which could be maintained in a healthy state to the height indicated on the landscape plans.

Structure means anything constructed or erected, except for fences, the use of which requires any type of permanent location on the ground or attached to something having a permanent location on the ground, and shall include but not be limited to signs, walkways or types of construction with interior surfaces not normally accessible for human use.

Substantial improvement means any combination of repairs, reconstruction, alteration, or improvements to a building, taking place during a one-year period in which the cumulative cost equals or exceeds 50 percent of the market value of the structure prior to the improvement. The market value of the building should be:

- (1) The appraised value of the structure prior to the start of the initial repair or improvement, or
- (2) In the case of damage, the value of the structure prior to the damage occurring.

This term includes structures which have incurred "substantial damage" regardless of the actual repair work performed. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been pre-identified by the code enforcement official and which are solely necessary to assure safe living conditions.

Surface water means water above the surface of the ground whether or not flowing through definite channels.

Temporary irrigation system is one which is not to be supplied by buried polyvinyl chloride (PVC), polyethylene (PE), copper tubing or any other direct buried piping.

Tree means any living, self-supporting woody perennial plant, together with its root system, growing upon the earth, usually one trunk or multi-trunk with diameter of at least 1 ½ inches measured at DSH.

Tree, dicotyledonous (Dicot) means a tree having a woody stem, branches, and leaves with net venation and having a separate, distinct outer bark which can be peeled from the tree.

Tree, shade/canopy means a tree which generally grows to an overall height of 30 feet or greater and which provides significant shade/canopy.

Tree, monocotyledonous (Monocot) means a palm or tree having fronds with parallel venation and no true woody bark.

Trim or trimming of vegetation means to cut branches, twigs, limbs, and foliage, but does not mean to remove, defoliate, or destroy. Trimming does not include the cutting of prop/aerial roots.

Turf means continuous plant coverage consisting of grass species suited to growth in the county.

Untrimmed mangrove means a mangrove that has not been trimmed over two successive growing seasons.

Vegetation means plant life that includes but is not limited to trees, palms, shrubs, groundcover, vines, and turf.

Vehicular encroachment is any protrusion of a motor vehicle outside of the boundaries of a vehicular use area into a landscape area.

Vehicular use area (VUA) means an area used for loading, circulation, access, storage, parking, or display of any type of vehicle, boat, or construction equipment whether self-propelled or not.

Very drought tolerant means vegetation that can survive without supplemental irrigation after establishment.

Vine means any plant with a long, slender stem that trails or creeps on the ground or climbs by attaching itself on a support.

Wetlands means hydrologically sensitive areas that are identified by being inundated or saturated by surface water or groundwater with a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands shall also be defined as those areas within the regulatory jurisdiction of the department of environmental regulation pursuant to F.S. ch. 403 and F.A.C. rules 17-3, 17-4, and 17-12. Wetlands generally include swamps, marshes, bogs and similar areas.

Weather based irrigation controller means an irrigation controller that calculates soil moisture from known weather and related inputs, as follows:

- (1) Receives and monitors weather data or on-site environmental conditions;
- (2) Calculates the amount of moisture input to and moisture lost from the soil and plants;
- (3) Automatically creates or adjusts the irrigation schedule to apply only the amount of water necessary to maintain adequate soil moisture.

Window means a visual corridor through vegetation between upland properties and the waterfront.

Section 3. The code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 66, Natural Resource Protection; Article IV, Vegetation, to read as follows:

“DIVISION 1. - GENERALLY

Sec. 66-211. - Findings.

It is found and determined that:

- (1) Landscaping promotes the health, safety and welfare of the community by absorbing carbon dioxide and returning oxygen to the air; precipitating dust and other articles in the air; providing wildlife habitat; providing soil stabilization; making the built environment more attractive; and helping to abate noise.
- (2) Proper landscaping and irrigation techniques can result in significant water conservation.
- (3) Landscaping provides a positive aesthetic value to the town.
- (4) Native shoreline ecosystems provide valuable shoreline stabilization and protection, wildlife habitat, and maintenance of environmental quality.
- (5) Pestilent exotic species constitute a nuisance in the town because:
 - a. They have spread rapidly to many areas of the town, displacing the diverse native Florida vegetation and associated wildlife habitat, and creating ecologically undesirable vegetative monocultures.
 - b. They can have adverse effects upon human health and pose safety hazards during high wind conditions.
 - c. The health, safety and welfare of the present and future residents of the town are benefited by minimizing degradation of the native ecological systems of the town.
- (6) Various plant species having aesthetic, ecological, educational, historical, recreational, economic or scientific value have been classified as endangered, threatened or species of special concern and should be protected.

Sec. 66-212. - Purpose and intent.

It is the intent of the town to promote the health, safety and welfare of existing and future residents of the town by establishing minimum standards for the protection of natural plant communities, and the installation and continued maintenance of landscaping within the town, in order to:

- (1) Promote water conservation and improve air quality by promoting evapotranspiration through the use of permeable land areas for aquifer recharge and surface water filtration.
- (2) Maintain and improve the aesthetic appearance of the town through appropriate landscape design; thereby protecting and increasing property values throughout the community.
- (3) Improve the environmental quality of the town.
- (4) Eradicate or control invasive exotic plant species as listed on the Florida Exotic Pest Plant Council's List of Invasive Plant Species.
- (5) Protect and encourage native shoreline and wetland ecosystems.
- (6) Offer special guidelines for the removal and control of those pestilent exotic species that are particularly deleterious to native shoreline environments.
- (7) Protect listed plant species that inhabit the town as referenced in Sec. 66-312.
- (8) Reduce noise and pollution by designing landscaping to visually screen unsightly views, and reduce noise impacts from major roadways and incompatible uses, through the filtering capacity of living trees and vegetation.
- (9) Provide a visual buffer between otherwise incompatible types of land uses,
- (10) Strengthen important vistas and reinforce desirable site design.
- (11) Promote the use of vegetation for energy conservation by encouraging cooling through the provisions of shade and channeling of breezes.

- (12) Encourage the use of rain harvesting systems such as cisterns, as a means to conserve water by reducing overwatering of landscapes.
- (13) Promote water conservation and lower water costs through the use of smart irrigation systems.

Sec. 66-213. - Applicability.

This article shall apply to, and a permit shall be required when one or more of the following activities are proposed on private property:

- (1) An entire lot where new construction or redevelopment occurs.
- (2) Those portions of a lot where proposed changes in vegetation (removal, relocation or addition):
 - a. Constitute 35% or more of the existing landscaped open space (but not less than 1,000 square feet) of a lot as defined in Chapter 134.
 - b. Are within 10 feet of any side, rear, street-side or street-rear property line and reduce the opacity of existing screening of more than 30 lineal feet.
 - c. Occur within an easement where no easement agreement exists, or where proposed changes are not in conformance to an existing agreement or encroach into a previously approved drainage system.
 - d. Affect "essential elements" of a landscape design as designated by the Architectural or Landmark Preservation Commission, and memorialized in an agreement, recorded document or contained as a deed restriction between the town and the property owner.
 - e. Require Architectural or Landmark Preservation Commission approval.
- (3) Existing development when proposed activities involve tree removal (See Sec. 66-236), or wetland protection (See Sec. 66-361 through Sec. 66-400).

Secs. 66-214—66-234. - Reserved.

DIVISION 2. - PERMITS

Sec. 66-235. – Application procedure for vegetation installation permit.

- (a) *Requirement for application.* Installation permits shall be obtained by making application prior to installation to the planning, zoning and building department director or designee, after having first received approval from the architectural or landmark preservation commission if applicable, and by paying a permit fee in accordance with the schedule of fees adopted by resolution by the town council and amended in the same manner.
- (b) *Permit Issuance and time limitations.* Upon approval of an application, the planning, zoning and building department director or his or her designee shall issue a permit. Permits shall expire and become null and void if work has not commenced within 90 days from the date of permit issuance. Work must be completed and pass a final inspection within one year of issuance of the permit. A time extension for the permit may be granted by the planning, zoning and building department director or designee for good cause upon written request.

Sec. 66-236. - Application procedure for vegetation removal permit.

- (a) *Requirement for Application.* Vegetation removal permits shall be required to remove trees, essential elements as defined herein, or vegetation which affects more than 35% of the existing landscape open space on a site, not sought in conjunction with a vegetation installation permit. Such permits shall be obtained by making application prior to removal, relocation or replacement to the planning, zoning and building department director or designee. Applications must be

submitted at least ten working days prior to the proposed date of removal in order to be considered timely, and shall be accompanied by a fee. Failure to submit a permit in a timely manner may result in the payment of a penalty fee. Permit and penalty fees are in accordance with the schedule of fees adopted by resolution by the town council and amended in the same manner.

- (b) *Circumstances justifying issuance.* Vegetation removal permits shall be issued in the following circumstances:
- (1) Where vegetation, including trees, due to natural circumstances, is no longer viable, is in danger of falling, is too close to existing structures so as to endanger such structures, interferes with utility services, creates unsafe vision clearance, or constitutes a health hazard;
 - (2) Where the affected vegetation will be relocated, replaced with a suitable substitute vegetation, or otherwise preserved, with the exception of mangroves, which are regulated elsewhere in this chapter; or
 - (3) Where vegetation removal is part of a plan to restore or encourage native shoreline species, either on the coastal strand, or along Lake Worth, as described in articles II and III of this chapter.
 - (4) Where proposed replacement vegetation, including trees, meets the requirements and intent of this code, as determined by the Planning, Zoning and Building Department Director or designee.
- (c) *Permit issuance and time limitations.* Upon approval of an application, the planning, zoning and building department director or designee shall issue a permit. Permits shall expire and become null and void if work is not commenced within 90 days from the date of permit issuance. Work must be completed and pass final inspection within six months of permit issuance. A time extension for the permit may be granted by the planning, zoning and building department director or designee for good cause upon written request.
- (d) Where removal is in conjunction with an approved vegetation installation permit, all vegetation or trees to be removed must be included in an approved landscape plan, and a separate vegetation removal permit will not be required.
- (e) The provisions contained in this section do not apply to projects which solely involve the removal of pestilent exotic species.

Secs. 66-237—66-260. - Reserved.

DIVISION 3. - PLANS

Sec. 66-261. - Plans required.

All site plans for new development and redevelopment shall be required to submit a landscape plan and irrigation plan to the architectural commission, or landmarks commission, as applicable. All plans shall be signed and sealed by a registered landscape architect licensed to practice in the state of Florida, who shall guarantee that the plans meet all specifications of this chapter. The plans shall include a drainage statement by a professional engineer licensed to practice in the state of Florida that the landscape plan is not in conflict with the stormwater management plan.

All work requiring a vegetation installation or removal permit which does not require architectural or landmark preservation commission review must be accompanied by information sufficient to determine conformance to this code, but need not be signed and sealed by a registered landscape architect unless the planning, zoning and building director or his or her designee determines that such signature and seal and a statement that plans meet all specifications of this chapter are necessary.

Sec. 66-262. - Landscaping plan.

(a) Landscaping plans shall identify:

- (1) Any native, historic or specimen trees located on the property.
- (2) Any threatened or endangered vegetative species contained on the Florida Game and Fresh Water Fish Commission's "Official Lists of Endangered and Potentially Endangered Fauna and Flora in Florida," or a comparable list approved by the town planning, building and zoning department.
- (3) The location, number, height, spread, amount of clear or grey wood, clear trunk, botanical name, cultivar and common name of all existing vegetation four inches or larger in diameter on the property.
- (4) The location, species name, and common name of all proposed vegetation on the property.
- (5) The location and type of trees to be relocated or removed, and place of relocation if applicable.
- (6) All elements of an approved stormwater management plan applicable to the project, and a drainage statement by a professional engineer registered in the state that the landscape plan is not in conflict with the stormwater management plan.
- (7) Planting specifications and irrigation sources, including but not limited to staking, fertilization, top soil, mulching and applicable drainage and subsurface treatments.
- (8) Property boundaries, location of proposed or existing buildings and site improvements, including but not limited to walls, gates, retention areas, parking, access aisles, driveways, sidewalks, easements, rights-of-way, drainage structures, overhead and underground utilities, poles, fire hydrants, check valves, transformers and other features to remain or to be removed.
- (9) Method to protect trees, including historic or specimen trees, and native plant communities during construction.
- (10) Such other information that may be required to give a complete understanding of a proposed plan.

(b) Details shall be in the same scale as the site plan, but not less than 1 inch equals 50 feet, with 1 inch equals 20 feet recommended for all planting plans.

Sec. 66-263. - Irrigation plans.

Detailed irrigation plans must be signed by an individual certified under the Irrigation Association Certification Program, submitted as part of a building permit, and shall include:

- (1) Layout of irrigation system and identification of components.
- (2) Explanation of relationship between plant groupings and type of irrigation used.
- (3) If the use of cisterns is proposed, include the size, location and estimated rainfall to be collected.

Secs. 66-264—66-284. - Reserved.

DIVISION 4. - DESIGN REQUIREMENTS

Sec. 66-285. – General

- (1) Landscape design shall enhance architectural features, relate structural design to the site, visually screen dissimilar uses and unsightly views, reduce noise impacts from roadways

and incompatible uses, strengthen vistas and reinforce neighborhood site design and architecture.

- (2) Existing specimen trees and native vegetation shall be preserved to the maximum extent possible, and the landscape plan shall include at least 33 percent of highly or moderately drought tolerant plant species where possible.
- (3) At least 25 percent (25%) of all required landscaping, by category in the form of trees, shrubs and ground cover plants, other than grass, shall consist of native vegetation. The Xeriscape Plant Guide by the South Florida Water Management District, or if available County or regional lists as amended may be used to determine appropriate native vegetation.
- (4) Canopy trees and shrubs shall be used to reduce energy consumption by shading buildings and paved surfaces.
- (5) Street trees shall be used to shade roadways and provide visual order. All street tree planting shall conform to the requirements in the town's Right-of-Way Manual.
- (6) Canopy trees and shrubs shall be placed on the site in locations that take into consideration overhead utility lines, proximity to native plant communities, underground rain harvesting systems, sewer lines, and other underground utilities and facilities.
- (7) Adjoining properties must be screened to mitigate negative impact to neighboring properties and adverse impacts of development.
- (8) All vegetation included in the proposed landscape plan must be in conformance with the requirements of the town's code of ordinances.

Sec. 66-286. - Water conserving landscape design.

- (a) The following section shall be applicable to all new construction, construction with a value of 50% or more of the total value of the principle structure, or those activities on a lot which are included in a landscape installation or removal permit. Additional requirements may be placed by the town council as a condition of a development order, or in conjunction with an approval granted by the architectural or landmark preservation commission, in order to promote the purpose and intent of this article.
 - (1) *Required.* Landscapes shall be designed in accordance with water conserving landscape design elements set forth in subsections (2) - (9).
 - (2) *Minimum landscaped open space.* Minimum landscaped open space shall be required as stipulated by the lot, yard and bulk regulations in the zoning code, chapter 134.
 - (3) *Required vegetation.* The following vegetation is required. The nine principles of Florida Friendly landscaping shall be utilized.
 - a. *Lawns.*
 1. If very drought tolerant grass is used, not more than 70 percent of the required landscaped open space shall be planted in lawn grass.
 2. If moderate drought tolerant grass is used, not more than 60 percent of the required landscaped open space shall be planted in lawn grass.

(Information on Florida friendly drought tolerant grass can be found at: <http://fyn.ifas.ufl.edu/ifaspubs.htm>.)
 3. Turf shall not be treated as a fill-in material, but rather as a major planned element of the landscape and shall be placed so that it can be irrigated separately from planting beds.
 - b. *Nonturfed areas.*

1. Nonturf areas shall be planted in mixes of trees, shrubs and ground covers.
2. Plants shall be grouped according to their water needs, and irrigated accordingly. At least 33 percent of the groupings shall be characterized by highly or moderately drought tolerant vegetation.

(Information for Florida friendly landscaping drought tolerant plants can be found at: <http://www.floridayards.org/index.php>)

c. *Trees.*

1. A minimum of one shade/canopy tree is required for every 5,000 square feet, or portion thereof, of a lot, for lots 10,000 square feet or more.
2. A minimum of one shade/canopy tree is required for lots less than 10,000 square feet.
3. Every effort should be utilized to reduce the risk of damage and liability by utilizing more salt tolerant and wind tolerant trees and palms due to the town's coastal proximity and the high risk of hurricanes in South Florida.
4. The selection and placement of all street trees must refer and adhere to the Town of Palm Beach Standards Applicable To Public Rights-Of-Way And Easements Within The Town Of Palm Beach.

d. *Screening of equipment.*

1. Dumpster, mechanical equipment, A/C units, electrical transformers, generators and all above ground equipment shall be screened in accordance with applicable requirements contained in Chapter 134 Zoning.
2. Such screening shall not interfere with normal operation of equipment.

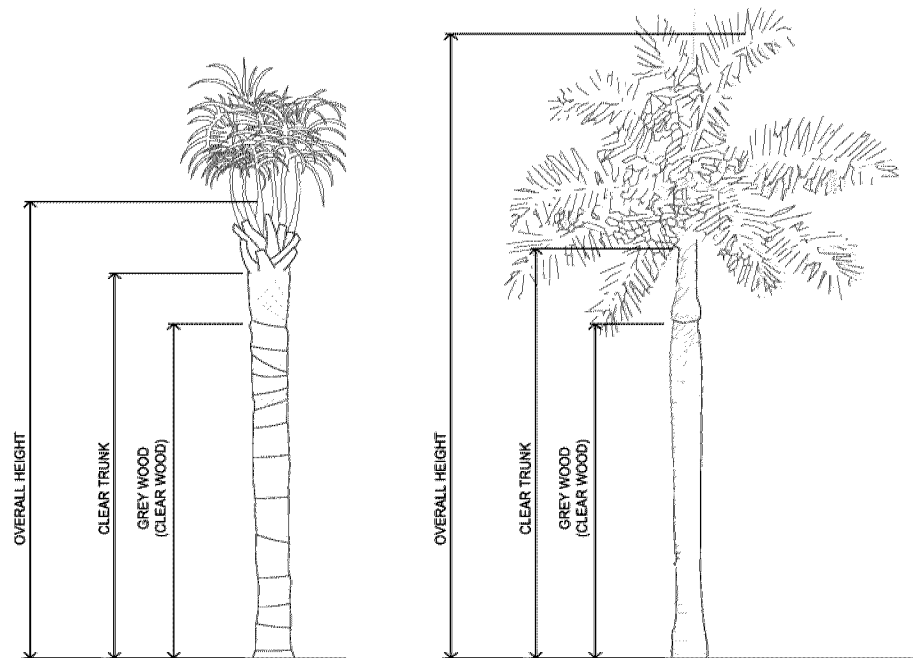
e. *Parking area interior landscaping and parking islands.*

1. The following requirements are applicable to interior parking areas of parking lots subject to the requirements of Sec. 134-2179(e) and (f) and are in addition to the requirements contained therein.
 - i. Terminal islands. Any landscaped islands must have at least 5 feet of planting area width (excluding Type D or Type F curbs) and 18 feet in length shall be provided at the end of each parking row. In addition, there shall be a minimum requirement of 1 tree and 25 groundcover plants planted in every landscaped terminal island.
 - ii. Interior islands. All parking areas shall be so arranged so that if there are 10 contiguous parking spaces along the same parking aisle, the eleventh space shall be a landscaped island. These landscaped interior islands must be at least 5 feet of planting area width (excluding Type D or Type F curbs) and 18 feet in length. In addition, there shall be a minimum requirement of 1 tree planted in every interior landscape island.
 - iii. Landscape treatment. All interior planting areas not dedicated to trees, shrubs, or existing vegetation, shall be landscaped with sod, groundcover, or other appropriate landscape treatment (no sand, rock, pavement, or base soil).
2. Sight triangles and clear visibility requirements. The creation and maintenance of site triangles must conform to Chapter 134 and the Town of Palm Beach Standards Applicable To Public Rights-Of-Way And Easements Within The Town Of Palm Beach.

(4) Minimum installation requirements.

- a. Shade/canopy trees shall be a minimum overall height of 14 feet, 6 feet spread, 2.5 inches DSH and 5 feet of clear trunk at planting.
- b. Intermediate trees shall be a minimum overall height of 12 feet, 5 feet spread, 2 inches DSH and 4.5 feet clear trunk at planting.
- c. Small trees shall be a minimum overall height of 10 feet, 4.5 feet spread, 1.5 inches DSH and 4 feet clear trunk at planting.
- d. Palms shall have a minimum of 8 feet clear trunk at planting. See Diagram A for palm height measurements. All proposed coconut palms shall be certified to be resistant to Lethal Yellowing.

DIAGRAM A



- e. Multi-trunk trees shall have a minimum of 3 – 5 trunks with equal diameters originating from the ground with angles no greater than 45 degrees and with no crossing branches.
- f. Shrubs shall be a minimum of 2 feet height, full to base, 2 feet spread and planted a maximum of 2 feet on center when measured immediately after planting. If the spread cannot be met with the 2 feet requirement, then 18 inches spread and 18 inches on center may be utilized. When shrubs are used for the perimeter buffer, said shrubs shall be a minimum of 2 feet in height at time of planting and branch touching branch.
- g. Required buffer hedges shall be planted a minimum 6 feet high, full to the base, with branch touching branch and maintained so as to form a continuous, unbroken solid, visual screen.
- h. Shrubs shall be planted so the branches do not touch the building walls or walkways at time of planting.
- i. The use of tree and plant material that reinforces the ambience of the town's distinctive, lush, diverse subtropical character is strongly encouraged.

- j. Plant quality for all required landscaping shall be Florida No. 1 or better, as provided in Grades and Standards for Nursery Plants, Part 1 and Part 2, as amended, as published by the Florida Department of Agriculture and Consumer Services. All vegetation shall be clean and free of noxious pests or disease. Sod shall be green, healthy, clean and visibly free of weeds, noxious pests and diseases. It shall be solid St. Augustine 'Floritam', 'Palmetto', Zoysia 'Empire', Paspalum 'Seashore', Bermuda or other cultivars on the Florida Friendly Landscaping list, laid on a smooth planting base with tight joints, at 100 percent coverage at time of planting and cut to fit all landscape planters and curb areas.
- k. Planting soil and topsoil shall be clear and free of construction debris, weeds and rocks. The topsoil and/or planting soil for all planting areas shall have a pH between 6.5 and 7.0 and be composed of the appropriate percent muck and sand in accordance with the requirements of the plant material.
- l. All trees/palms shall be properly guyed and staked at the time of planting until one year from landscape final or establishment. The use of nails, wire or rope, or any other method which damages the trees or palm, is prohibited.
- m. All plants shall be installed so the top of the rootball is 10% above the surrounding soil grade. All synthetic string, synthetic burlap, cords, or wire baskets shall be removed prior to planting.
- n. All proposed landscaping shall be installed with fertilizer which has trace minor elements in addition to a minimum six percent Nitrogen (N) - six percent Phosphorus (P) - six percent Potassium (K) of which 50 percent of the nitrogen must be derived from an organic source.
- o. All plant root ball sizes shall conform or exceed the minimum standards in the current edition of Florida Grades and Standards.

(5) *Irrigation standards.*

- a. Weather-based controlled irrigation systems must be used for the cultivated landscape areas in accordance with the provisions in this article.
- b. The use of rainfall harvesting systems is encouraged and promoted.
- c. Irrigation shall be designed in zones that reflect necessary water regimes for specific groupings of vegetation.
- d. Sprinkler heads irrigating lawns or other high water requirement landscape areas shall be circuited so that they are on a separate zone from those irrigating trees, shrubbery or other reduced water requirement areas.
- e. Zones containing existing native plant communities and ecosystems maintained in a natural state do not require, and shall not have any additional irrigation water added in any form.
- f. In order to prevent overthrow, low trajectory heads or low volume water distributing devices shall be used when irrigating confined areas.
- g. No more than ten percent of spray radius shall be allowed onto impervious areas.
- h. Newly installed native plant areas may require irrigation during the establishment period. Water during this period shall be applied from a temporary irrigation system, a water truck, or by hand watering from a standard bib source.
- i. A temporary irrigation system shall be removed no later than 60 days after completion of the planting.
- j. Irrigation must be designed to provide 100 percent coverage of landscape areas.

- (6) *Use of organic mulches.* A minimum of two inches of arsenic-free organic mulch shall be installed around each tree planting for a minimum of 18 inches beyond its trunk in all directions, including palms, and throughout all hedge, shrub, and groundcover plantings. Mulch shall be pulled a minimum of two inches away from trees and palms. Appropriate mulching material consists of by-product or alternative mulches such as pine bark, eucalyptus, utility or other mulch as recommended by Florida Friendly Landscaping principles. The use of Cypress mulch is prohibited.
- (7) *Control systems.*
- a. The irrigation system shall be equipped with weather or moisture sensing devices to avoid operation during periods of sufficient moisture.
 - b. Automatically controlled irrigation systems shall be operated by an irrigation controller that is capable of watering high water requirement areas on a different schedule from low water requirement areas.
- (b) *Advanced irrigation systems.* This section shall be applicable to any new, replacement or modification affecting more than 50% of a landscape irrigation system.
- (1) Any person who purchases or installs an automatic landscape irrigation system on their property must properly install, maintain, and operate the system in accordance with manufacturer specifications, technology that inhibits or interrupts operation of the system during periods of sufficient moisture, and otherwise comply with the provisions of this section.
 - (2) All components of an automatic landscape irrigation system, including but not limited to controllers, soil moisture sensors, sprinkler heads and valves, which are installed subsequent to the date of adoption of this ordinance must conform to smart irrigation standards and be equipped with a weather-based irrigation controller.
 - (3) The weather-based irrigation controller must be approved by the building official as meeting the Environmental Protection Agency (EPA) WaterSense® specification for weather-based controllers or, the requirements of the Irrigation Association (IA) for climate-based or moisture sensor-based controllers. Or some comparable and applicable standard.
- (c) Owners who have a properly operating irrigation system controlled by a weather-based irrigation controller shall be eligible for a waiver from the day-of-the-week landscape irrigation restrictions set forth in section 122-78(b)(3) and (4) by the submission of an application for a variance, and payment of any applicable fees as adopted by the Town Council by resolution.
- (d) The town shall maintain a database of all properties which have installed and maintained advanced irrigation systems in accordance with the requirements of this subsection, and which are exempt from the day-of-the-week irrigation restrictions set forth in section 122-78(b)(3) or (4).
- (e) A waiver granted from section 122-78(b)(3) or (4) based on the installation and operation of an advanced irrigation system does not relieve a property owner from complying with irrigation restrictions contained in a water shortage order or water emergency declaration issued by the South Florida water Management District, the City of West Palm Beach or the Town of Palm Beach.
- (f) A licensed contractor or owner who installs or performs work on an automatic landscape irrigation system must test for the correct operation of each inhibiting or interrupting device or switch on the system. If such devices are not installed, or are not functioning properly, the contractor must install new devices or repair the existing ones and insure that each is operating properly before completing other work on the system.
- (g) A licensed contractor shall perform annually a maintenance review of the weather-based irrigation controller and irrigation system and certify to the town on an annual basis that the ET-controlled system is properly operating and in compliance with this section. Failure to provide annual recertification that the system is properly operating shall result in revocation of the waiver received under section 122-78(b)(3) or (4).

Sec. 66-287. Certificate of Occupancy and Certificate of Completion.

No certificate of occupancy or certificate of completion shall be issued until such time as all of the required landscaping is installed and approved by the planning, zoning, and building department director or designee. However, nothing herein shall prevent the issuance of a temporary certificate of occupancy so long as at least the sod portion of the landscaping has been installed.

Sec. 66-288. Protection of Trees during Construction or Land Development.

- (1) During any construction or land development, protective barriers specified and approved by the Planning, Zoning, and Building Director, or his or her designee, shall be placed and maintained around all trees to be retained on site to prevent their destruction or damage. The developer shall use every precaution possible to avoid damaging such trees by preventing the use or storage of materials or equipment, or the contamination of soil with such materials as paint, oil, solvents, asphalt, concrete, mortar, and the like, within the drip line.
- (2) No attachments other than those of a protective or non-damaging nature, shall be attached to any tree except those trees approved to be removed or relocated.

Sec. 66-289. Vegetation Maintenance Requirements

An owner of land is subject to this code and shall be responsible for the maintenance of said land and landscaping. All vegetation shall be maintained at all times so as to present a healthy, vigorous and neat appearance free from refuse and debris. All landscaped areas shall be sufficiently fertilized and irrigated to maintain the plant material in a healthy and viable condition. All fertilizer and pest control shall be safe and environmentally friendly and applications shall conform to the manufacturer's specifications.

All missing, removed, dead, or damaged vegetation whether from natural or manmade causes shall be replaced with equivalent vegetation in a time period determined by the Town of Palm Beach.

Where vegetation has not been maintained or pervious areas exist without benefit of vegetation which meets the requirements of this code, the owner may be cited at which time the requirements of this code will apply to all areas in violation.

Sec. 66-290. Tree Trimming Standards.

All trees shall be trimmed in accordance with standards established by American National Standards Institute (ANSI A300). All trimming, pruning and shaping shall be performed under the supervision of a certified arborist.

Sec. 66-291. Hatracking/Topping Prohibited.

Pruning a tree by hatracking or topping and thus creating detrimental effects, including vigorous but weakly-attached regrowth, pest susceptibility, pathogen intrusion, and internal decay is prohibited. However, crown reduction in excess of one-third may be permitted under the following conditions:

- (1) If a tree interferes with utility lines or utility structures.
- (2) If a tree has significant damage and in the opinion of the Planning, Zoning & Building Director or designee, should be pruned in order to preserve the tree.

Secs. 66-292—66-310. - Reserved.

Section 4. Effective Date. This ordinance shall take effect on January 1, 2017 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 13th day of December, 2016 and second reading on the 10th day of January, 2017.

Gail L. Coniglio, Mayor

Michael J. Pucillo, Town Council President

Richard M. Kleid, Council President Pro Tem

Bobbie Lindsay, Town Council Member

ATTEST

Danielle H. Moore, Town Council Member

Susan A. Owens, MMC, Town Clerk

Margaret A. Zeidman, Town Council Member

TOWN OF PALM BEACH

Town Council Meeting on: January 10, 2017

Section of Agenda

Ordinances - Second Reading

Agenda Title

ORDINANCE NO. 28-2016 An Ordinance of The Town Council of The Town of Palm Beach, Palm Beach County, Florida, Rescinding Section 18-241 of The Town Code of Ordinances Relating To Building Board of Adjustment And Appeals In Its Entirety; Providing For Severability; Providing For Repeal of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

Presenter

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

ATTACHMENTS:

- ▣ **Ordinance No. 28-2016**

ORDINANCE NO. 28-2016

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, RESCINDING SECTION 18-241 OF THE TOWN CODE OF ORDINANCES RELATING TO BUILDING BOARD OF ADJUSTMENT AND APPEALS IN ITS ENTIRETY; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Palm Beach has determined that a Building Board of Adjustment and Appeals is no longer necessary, as there are alternative remedies for aggrieved parties established by Florida Statutes; and

WHEREAS, it is the desire of the Town Council to, therefore, rescind Section 18-241 of the Town's Code of Ordinances relating to the Building Board of Adjustment and Appeals; and

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

Section 1. Section 18-241 of the Town's Code of Ordinances relating to the Building Board of Adjustment and Appeals is hereby rescinded in its entirety.

Section 2. Any further reference to the Building Board of Adjustment and Appeals is hereby deleted except to the extent that said wording is consistent with the rescission of the establishment and duties of the Building Board of Adjustment and Appeals as referenced herein.

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 13th day of December, 2016 and for second and final reading on this 10th day of January, 2017.

Gail L. Coniglio, Mayor

Michael J. Pucillo, Town Council President

Richard M. Kleid, Council President Pro Tem

Danielle H. Moore, Town Council Member

ATTEST:

Bobbie Lindsay, Town Council Member

Susan A. Owens, MMC, Town Clerk

Margaret Zeidman, Town Council Member

TOWN OF PALM BEACH

Town Council Meeting on: January 10, 2017

Section of Agenda

Ordinances - First Reading

Agenda Title

ORDINANCE NO. 04-2017 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 70, Offenses by Creating a new Section 70-9 Entitled Balloons and Sky Lanterns Release; Providing for the Prohibition on the Release of Balloons and Sky Lanterns Within the Town; Providing Definitions Regarding the Same; Providing for Severability; Providing for Codification; Providing an Effective Date; and for Other Purposes.

Presenter

Jay Boodheshwar, Deputy Town Manager

ATTACHMENTS:

- ▣ **Memorandum dated January 3, 2017, from Jay Boodheshwar, Deputy Town Manager**
- ▣ **Ordinance No. 04-2017**
- ▣ **Loggerhead Marineline Center Balloon Ban Initiative**

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 10, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: Jay Boodheshwar, Deputy Town Manager

Re: Amendment of Town Code of Ordinances at Chapter 70, Offenses, by Creating a New Section 70-9 Entitled Balloons and Sky Lantern Release
Ordinance No. 04-2017

Date: January 3, 2017

STAFF RECOMMENDATION

Staff recommends Town Council approve Ordinance No. 04-2017, amending the Town Code of Ordinances at Chapter 70, Offenses, by Creating a New Section 70-9 Entitled Balloons and Sky Lantern Release, as recommended by the Ordinances, Rules and Standards Committee.

GENERAL INFORMATION

In the early Fall of 2016 staff presented a proposal (on behalf of ORS) to the Palm Beach Day Academy to research the effects of balloons and single-use plastic bags on the environment, specifically in coastal communities. Under the supervision and guidance of Ms. Sarah Kemeness of the Palm Beach Day Academy, 9th grade student Gray Foster took on the challenge.

Mr. Foster completed extensive research into both matters and presented his research findings and recommendations to the ORS Committee on December 8, 2016. Mr. Foster's research sheds a light on the adverse environmental impact of balloons and other debris in our oceans and waterways, including the unnecessary fatalities caused to marine wildlife who mistake balloons as jellyfish and ingest them.

Mr. Foster accurately points out that Section 379.233 of the Florida Statutes already prohibits the release of balloons into the atmosphere, but it doesn't address sky lanterns and only prohibits the release of 10 or more balloons in a 24-hour period. In response to a call for action by the Loggerhead Marinelife Center (see attached), multiple communities in South Florida have approved ordinances completely banning the release of balloons and sky lanterns, including: Dania Beach, Juno Beach, Jupiter, Lake Worth, Hallandale Beach, Hillsboro Beach, Hollywood, Miami Lakes, South Palm Beach, Surfside, Palm Beach County, Martin County, and Miami-Dade County.

The ORS Committee agreed with Mr. Foster's recommendation to present an ordinance to Town Council, banning the release of balloons and sky lanterns in Palm Beach, which is attached for your consideration.

TOWN ATTORNEY REVIEW

The Town Attorney prepared and approved Ordinance No. 04-2017.

Attachment

cc: John C. Randolph, Town Attorney
Department Directors
Nicholas Caristo, Police Captain
Benjamin Alma, Code Enforcement Manager

ORDINANCE NO. 04-2017

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 70, OFFENSES BY CREATING A NEW SECTION 70-9 ENTITLED BALLOONS AND SKY LANTERNS RELEASE; PROVIDING FOR THE PROHIBITION ON THE RELEASE OF BALLOONS AND SKY LANTERNS WITHIN THE TOWN; PROVIDING DEFINITIONS REGARDING THE SAME; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Town Council of the Town of Palm Beach, Palm Beach County, Florida, has determined that balloons and sky lanterns released into the atmosphere return to the earth as litter; and

WHEREAS, the Town Council believes that the release (accidental or intentional) of balloons and sky lanterns into the atmosphere pose a danger and nuisance to the environment and wildlife who may ingest this debris; and,

WHEREAS, Florida's East Coast is home to some of the most densely utilized sea turtle nesting beaches in the country; and,

WHEREAS, marine animals, such as sea turtles, mistake the remains from balloons as food which may potentially damage their digestive systems, lead to starvation and/or death; and,

WHEREAS, even biodegradable balloons do not degrade quickly enough to avoid ingestion of the same by marine wildlife; and,

WHEREAS, the Town Council wishes to prohibit the release of balloons and sky lanterns; and,

WHEREAS, the Town Council of the Town of Palm Beach finds that these revisions to the Town's code will preserve, promote, and protect the health, safety, and welfare of its citizens.

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 70. Offenses to add a new Section 70-9 to read as follows:

Section 70-9 – Balloons and Sky Lanterns Release.

(1) No person shall release any balloon or balloons inflated with a gas that is lighter than air or any sky lantern within the jurisdictional limits of the Town of Palm Beach.

(2) This subsection does not prohibit the following:

- a. Release of balloons indoors;
- b. Release of sky lanterns indoors; or
- c. Release of balloons by a governmental agency for scientific or meteorological purposes.

Sky lantern shall mean a device that requires a flame which produces heated air trapped in a balloon-type covering allowing the device to float in the air. Sky lanterns shall not include hot-air balloons used for transporting persons.

Section 2. Severability.

If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

Section 3. Repeal of Ordinances in Conflict.

All other ordinances of the Town of Palm Beach, Florida, or parts thereof which conflict with this or any part of this Ordinance are hereby repealed.

Section 4. Codification.

This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach.

Section 5. Effective Date.

This Ordinance shall take effect immediately upon its passage and approval, as provided by law.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this ____ day of January, 2017, and for second and final reading on this ____ day of _____, 2017.

Gail L. Coniglio, Mayor

Michael J. Pucillo, Town Council President

Richard M. Kleid, Council President Pro Tem

Bobbie Lindsay, Town Council Member

ATTEST:

Danielle H. Moore, Town Council Member

Susan A. Owens, MMC, Town Clerk

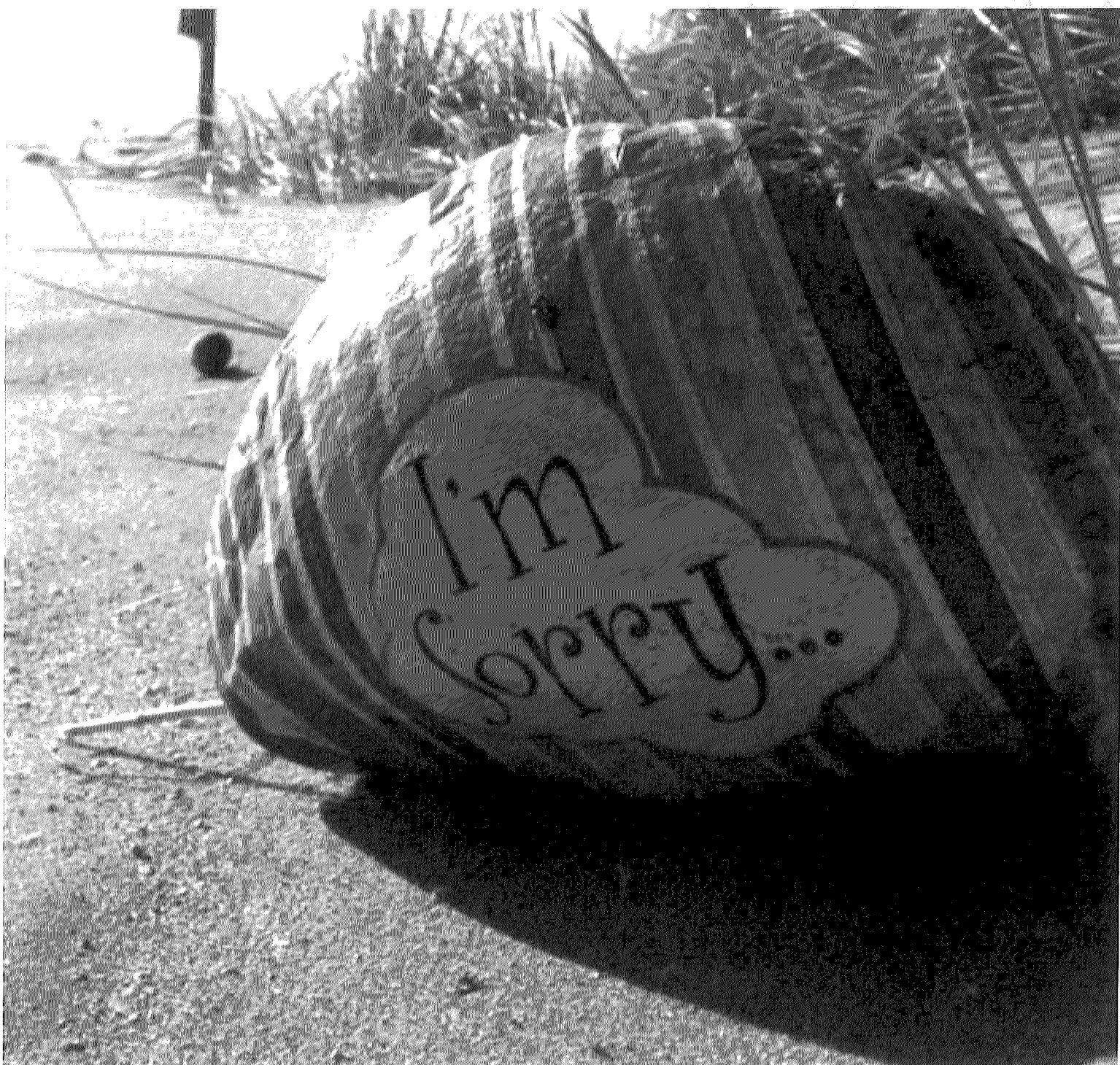
Margaret Z. Zeidman, Town Council Member

P:\DOCS\13156\00008\DOC\1R5953402.DOC



Balloon Ban

Loggerhead Marineline Center
14200 US Highway One, Juno Beach, FL 33408
561-627-8280 | marinelife.org



<u>Table of Contents</u>	
Sample Ordinance.....	3
Flyer.....	5
Signage Options.....	6
Sample Webpage.....	8

Florida's East Coast is home to some of the most densely utilized sea turtle nesting beaches in the country. At Loggerhead Marinelife Center (LMC), a non-profit organization located in Juno Beach, Florida, hospital staff regularly treat turtles with complications due to marine debris ingestion.

Balloons are often released, purposefully or by accident, and end up littering the ocean. The deflated balloons resemble jellies, a common prey item for sea turtle species. In an effort to promote the safety and protection of marine life, LMC staff wish to form a partnership to prohibit the use of balloons in designated locations along the coast.

LMC Contacts

Tommy Cutt, Chief Conservation Officer – tcutt@marinelife.org
Demi Fox, Outreach Coordinator – dfox@marinelife.org

Sample Ordinance

Below is a sample ordinance that may be added to the City, Town, Village, or County Code.

ORDINANCE NO. XXXX

AN ORDINANCE OF THE TOWN COUNCIL OF THE (TOWN NAME), FLORIDA, ENTITLED "BALLOON BAN," PROVIDING FOR THE PROHIBITION OF BALLOON USAGE AND BALLOON RELEASES IN (LOCATION(S)); AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS balloons are often released, contributing to marine debris. The deflated balloons resemble jellies, a common prey item for sea turtle species as seen in Exhibit "A"; and

WHEREAS Florida's East Coast is home to some of the most densely utilized sea turtle nesting beaches in the country.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE (TOWN NAME), FLORIDA:

Section 1. In an effort to promote the safety and protection of sea turtles, no person shall display, release, or distribute balloons of any kind in (location(s)).

Section 2. The (Property Name – civic centers, park pavilions, etc.) lease shall include a notice of the prohibition of balloon usage as well as a link to educational information regarding the effect of balloons on sea turtles and marine life.

Section 3. The party responsible for (Property Name) reservations is hereby directed to supply prospective renters with educational information explaining the prohibition of balloon usage and the Town's reason for the restriction.

Section 4. Effective date. This ordinance shall take effect immediately upon its adoption.

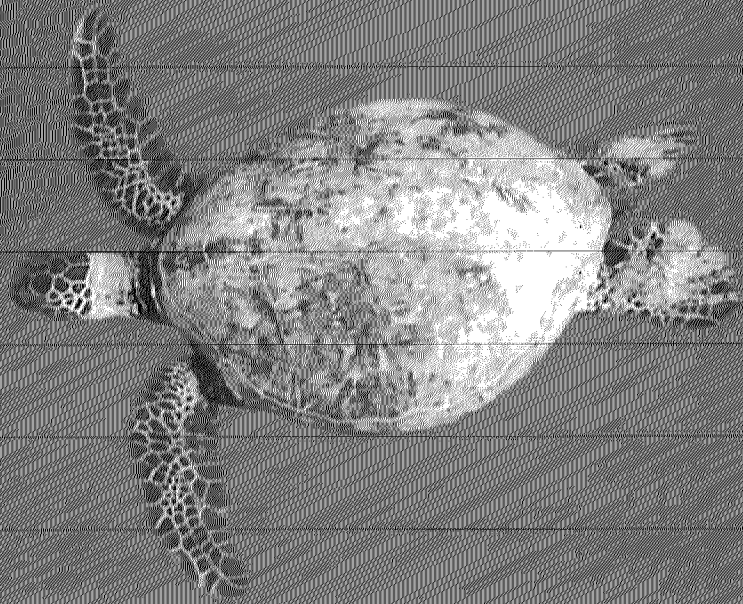
Exhibit "A"

The below pictured green sea turtle (*Chelonia mydas*), being treated at Loggerhead Marinelife Center, ingested a plastic balloon.

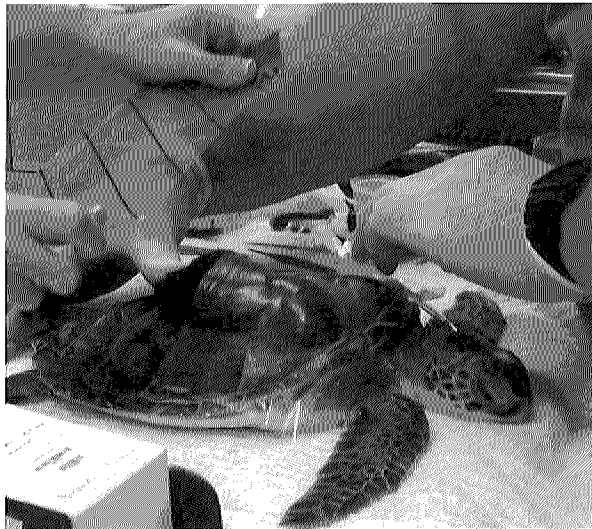


Town
Logo

Balloon Ban



Deflated balloons resemble jelly fish, a common prey item for sea turtles. In an effort to promote the safety and protection of sea turtles, (Town Name) has prohibited the use of balloons in (location(s)).



Former LMC patient, Lil' Nugget, swallowed a balloon.



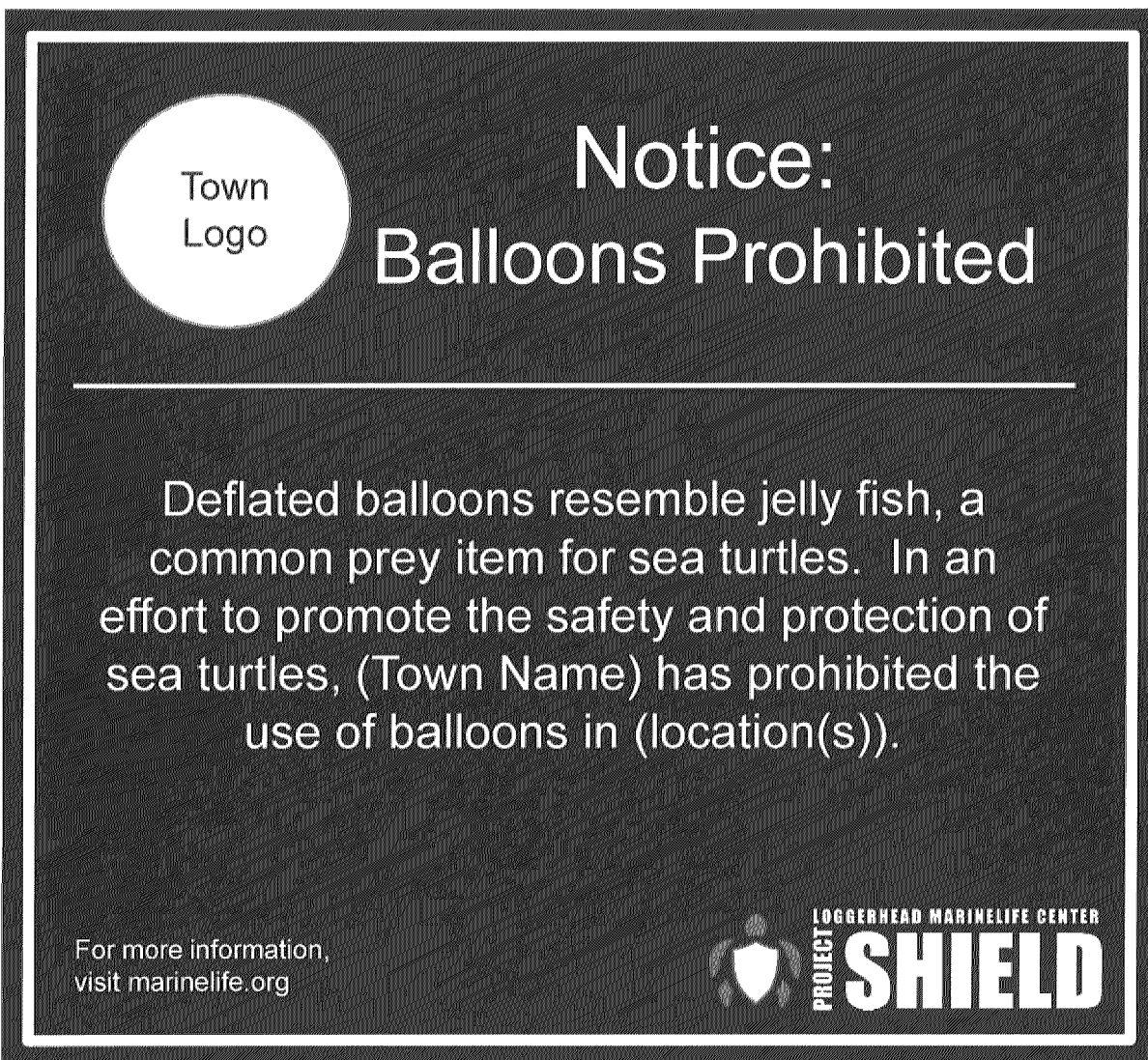
Hundreds of balloons are collected on Florida beaches.

You can also help protect sea turtles in the following ways:

- Remove any lounge chairs, umbrellas, and other beach furniture from the beach overnight.
- Knock down sand castles and fill in holes in the sand when leaving the beach.
- Turn off outdoor lights at night and close curtains after sunset to keep light pollution off the beach.
- Dispose of all trash and clean up any debris found on the beach.
- If you see a nesting turtle, try not to disrupt her. Do not use any bright lights or flash photography and avoid creating loud noises.
- If you see healthy hatchlings, allow them to crawl to the ocean on their own.

Signage Option 1

Below is an example of signage that may be displayed in appropriate locations. All colors, text, and logos are fully customizable and may be edited to best suit the needs of each location.



Signage Option 2

Below is a mock-up of the signage that was recently installed in Loggerhead Park in collaboration with Palm Beach County. Similar signage could be produced for any town location. All colors, text, and logos are fully customizable and may be edited to best suit the needs of each location.

24 in

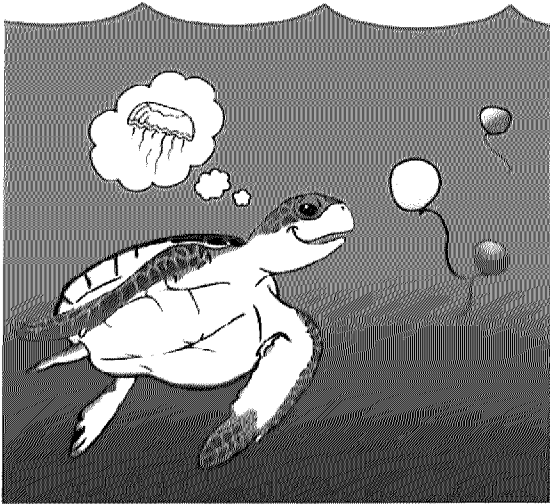
30 in

NOTICE  3.2 in

BALLOONS ARE PROHIBITED .95 in

Deflated balloons resemble jelly fish, a common prey item for sea turtles. .5 in

At Loggerhead Marinelife Center hospital staff are regularly treating turtles that have eaten balloons.



.431 in

In an effort to promote the safety and protection of sea turtles, Loggerhead Marinelife Center and **Your Name Here** have partnered to prohibit the use of balloons at **Your Location**.

YOUR LOGO HERE

To learn more visit
<http://www.marinelife.org/>



Sample Webpage

Below is the notice that is currently displayed on the Loggerhead Park webpage.

www.pbcgov.com/park/locations/loggerhead.htm?Vj=2014.01

Select Language

Parks & Recreation

Search Site

Parks & Recreation Home Find Parks/Amenities Calendar of Events Things to Do General Information Contact Us

You are here: Home > Parks & Recreation > Loggerhead Park

North Parks

- Barclay Winters
- Bart Reynolds
- Caliana Colony
- Carlin
- Coral Cove
- County Piers Rec Complex at Samuel Friedland
- Dubois
- Egan
- Fabertson Island
- Grahamcy
- Jim Barry Light Harbor
- Juno
- Juno Beach
- Jupiter Beach
- Jupiter Farms
- Kennedy Estates
- Limestone Creek
- Loggerhead
- Lonsdale River Battlefield
- North County Aquatic Complex
- Ocean Key
- Ocean Reef
- Panama Island
- Palm Fossil
- Riverland
- West Jupiter Recreation Center

316

Loggerhead Park

NOTICE: The use of balloons is now prohibited at Loggerhead Park. Loggerhead MarineLife Center and Palm Beach County have committed to the prohibition of balloons at the park in an effort to promote the safety and protection of sea turtles. Visit Loggerhead MarineLife Center online to learn more about the dangers balloons pose to marine wildlife.

ENTRANCE: 14200 U.S. Highway 1, Juno Beach, Florida 33408
Google Maps

HOURS: Sunrise - Sunset

CLASS: Beach

ACREAGE: 17.26 acres

AMENITIES

- activity building
- beach frontage, guarded (900 feet)
- beach surf wheelchair is available; contact a lifeguard to arrange for use.
- salvator fishing and surfing not permitted in guarded swimming area
- kiting (sailwater)
- nature trail
- parking
- picnic areas with grills, single table
- picnic pavilion, reserved group (1)
- picnic shelters, family (7)
- playground, including
 - play structure (ages 2-12 years)
 - play structure (ages 5-12 years)
- restroom facilities
- showers, outdoor

LOCATION OF

- Ceafal Railroad Historical marker

View Loggerhead Park in a larger map

Contact Information:

- Daily Beach Conditions
 - North County: (561) 624-0065
 - South County: (561) 629-8775
- Ocean Rescue Headquarters
 - North District: (561) 694-7400
 - Juno Beach Park, 14275 U.S. Highway 1, Juno Beach, Florida 33408
 - South District: (561) 629-8770
 - Ocean Reef Park, 6590 H. Ocean Boulevard, Ocean Ridge, Florida 33435
- Webcams
 - Contact Us, if you have questions, comments, or would like to be notified by email about upcoming activities at an aquatic facility

Beach Cleanups:

Interested in Beach Clean Ups?

TOWN OF PALM BEACH

Town Council Meeting on: January 10, 2017

Section of Agenda

Ordinances - First Reading

Agenda Title

ORDINANCE NO. 05-2017 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending Section 2-567. Of The Town Code Of Ordinances Relating To The Creation Of An Investment Advisory Committee; Amending Subsection (G) Thereof So As To Include In The Duties Of The Investment Advisory Committee The Obligation To Act As A Citizen Oversight Committee In Regard To The One-Cent Surtax Enacted By Law; To Review The Revenues and Expenditures Of Said Surtax Proceeds By The Town And To File An Annual Report To The Town In Regard To The Committee's Duties As A Citizen Advisory Committee; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

Presenter

John C. Randolph, Town Attorney

ATTACHMENTS:

- ▣ **Memorandum dated December 5, 2016, from Thomas G. Bradford, Town Manager**
- ▣ **Ord. No. 5-2016**

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 10, 2017

To: Mayor and Town Council

From: Thomas G. Bradford, Town Manager

Re: Ordinance No. 05 – 2017 – Designating the Investment Advisory Committee as the
Citizens Oversight Committee Required by the One Cent Surtax (sales) Tax Referendum

Date: December 5, 2016

STAFF RECOMMENDATION

Staff recommends the Town Council adopt attached Ordinance No.5-2017 designating the Investment Advisory Committee is the citizens oversight committee required by the one cent surtax (sales) tax referendum approved by the Palm Beach County electorate on November 8, 2016.

GENERAL INFORMATION

At the Town Council meeting on December 13, 2016, the Town Council accepted staff's recommendation to designate the Town's Investment Advisory Committee as the citizen's oversight committee required by the referendum approved by the Palm Beach County electorate on November 8, 2016. Town Attorney Randolph has prepared the attached ordinance for your consideration in order to implement this new assignment for the Investment Advisory Committee.

FUNDING/FISCAL IMPACT

The Town is estimated to receive up to \$500,000 per year from this new revenue source. These funds may only be used for the purpose of making capital expenditures.

Cc: Jane Struder, Finance Director

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING SECTION 2-567. OF THE TOWN CODE OF ORDINANCES RELATING TO THE CREATION OF AN INVESTMENT ADVISORY COMMITTEE; AMENDING SUBSECTION (g) THEREOF SO AS TO INCLUDE IN THE DUTIES OF THE INVESTMENT ADVISORY COMMITTEE THE OBLIGATION TO ACT AS A CITIZEN OVERSIGHT COMMITTEE IN REGARD TO THE ONE-CENT SURTAX ENACTED BY LAW; TO REVIEW THE REVENUES AND EXPENDITURES OF SAID SURTAX PROCEEDS BY THE TOWN AND TO FILE AN ANNUAL REPORT TO THE TOWN IN REGARD TO THE COMMITTEE'S DUTIES AS A CITIZEN ADVISORY COMMITTEE; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the voters of Palm Beach County, have, by referendum, adopted an ordinance of Palm Beach County creating a one-cent sales surtax, which sales surtax commences on January 1, 2017; and

WHEREAS, the county ordinance and the ballet language approved by the voters provides that municipal expenditures of the one-cent sales surtax shall be subject to independent oversight by a Citizens' Oversight Committee; and

WHEREAS, the Town has in operation, pursuant to the terms of Section 2-567 of the Town Code an Investment Advisory Committee; and

WHEREAS, it is determined by the Town Council that it is appropriate for the Investment Advisory Committee to also serve as the Citizen Oversight Committee for the purposes described in the county's ordinance relating to the one-cent sales surtax.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

Section 1. Section 2-567. Relating to the Investment Advisory Committee is

hereby amended at Subsection (g) to read as follows:

“(g) ~~Advisory capacity~~ Duties, obligations and functions.

(1) The Investment Advisory Committee shall act in an advisory capacity and shall make recommendations to the Town Council on matters relating to the Town's investment policy. The Investment Advisory Committee shall advise the director of finance on the investment of the Town's surplus funds. All recommendations must be made within the constraints and limitations of F.S. § 218.415.

(2) The Investment Advisory Committee shall also act as a citizens' oversight committee in regard to the one-cent sale surtax which, by law, commences on January 1, 2017. The committee, acting as a citizen oversight committee, shall serve to review the revenues and expenditures of surtax proceeds by the Town; and shall provide annually, a report to the Town Council relating to same.”

Section 2. **Severability.**

If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

Section 3. **Repeal of Ordinances in Conflict.**

All other ordinances of the Town of Palm Beach, Florida, or parts thereof which conflict with this or any part of this Ordinance are hereby repealed.

Section 4. **Codification.**

This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach.

Section 5. Effective Date.

This Ordinance shall take effect immediately upon its passage and approval, as provided by law.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this ____ day of _____, 2017, and for second and final reading on this ____ day of _____, 2017.

Gail L. Coniglio, Mayor

Michael J. Pucillo, Town Council President

Richard M. Kleid, Council President Pro Tem

Bobbie Lindsay, Town Council Member

ATTEST:

Danielle H. Moore, Town Council Member

Susan A. Owens, MMC, Town Clerk

Margaret Z. Zeidman, Town Council Member

P:\DOCS\13156\00008\DOC\1R7088503.DOC

TOWN OF PALM BEACH

Town Council Meeting on: January 10, 2017

Section of Agenda

Ordinances - First Reading

Agenda Title

ORDINANCE NO. 06- 2017 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending The Town Code of Ordinances at Chapter 2, Administration, Article X, Shore Protection Board at Section 2-636, so as to Create Term Limits and so as to Provide for The Appointment of Alternate Members; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.

Presenter

John C. Randolph, Town Attorney

ATTACHMENTS:

- ▣ **Memorandum dated December 5, 2016, from Thomas G. Bradford, Town Manager**
- ▣ **Ordinance 06-2017**

TOWN OF PALM BEACH

Information for Town Council Meeting on: January 10, 2017

To: Mayor and Town Council

From: Thomas G. Bradford, Town Manager

Re: Ordinance No. 06 – 2017 – Establishing term limits for the Shore Protection Board and
Expanding the Shore Protection Board to have Two Alternate Members

Date: December 5, 2016

STAFF RECOMMENDATION

Staff recommends the Town Council adopt attached Ordinance No. 6-2017 establishing term limits for the Shore Protection Board and expanding the Shore Protection Board to have two alternate members based upon the actions of the Town Council at your meeting on December 13, 2016.

GENERAL INFORMATION

At the Town Council meeting on December 13, 2016, the Town Council provided staff with direction on implementation of term limits and the addition of two alternate members to the Shore Protection Board. Town Attorney Randolph has prepared the attached ordinance for your consideration in order to implement these Shore Protection Board changes.

TOWN ATTORNEY REVIEW

This ordinance was prepared by the Town Attorney.

Cc: H. Paul Brazil, P.E., Director of Public Works
Robert Weber, Coastal Program Manager

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 2, ADMINISTRATION, ARTICLE X, SHORE PROTECTION BOARD AT SECTION 2-636, SO AS TO CREATE TERM LIMITS AND SO AS TO PROVIDE FOR THE APPOINTMENT OF ALTERNATE MEMBERS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

Section 1. The Code of Ordinances of the Town of Palm Beach is hereby amended to read as follows:

"Sec. 2-636. - Shore protection board created; appointments; terms; qualifications; advisory function; requirements; officers; procedure.

(a) Generally. A board of the town to be known as the "Shore Protection Board" is hereby created; such board to be composed of seven members to be appointed by the town council. Two of such board members shall hold office from the date of their appointment for a period of one year, two of such board members shall hold office from the date of their appointment for a period of two years and three of such board members shall hold office from the date of their appointment for a period of three years. Thereafter, members of the shore protection board shall hold office for three year terms. Upon reappointment, any member who has served two full three year terms shall no longer be eligible for reappointment, however, a member may be reappointed by Town Council upon the expiration of one full year subsequent to their terms having expired. This provision shall not be applicable to those members subject to reappointment in 2017 who, upon reappointment may serve one additional two year term. Members of the board shall be residents of the town; however, one of the members may be a nonresident of the town provided said member has a special skill as it relates to shore protection. If a vacancy shall occur other than by the expiration of a term, it may be filled by the town council for the unexpired term.

(b) Alternate members. The Town Council may in its discretion appoint up to two alternate members to the Shore Protection Board who shall serve when called upon by the chair of the board in the absence of any regular member. Alternate members are required to attend all meetings of the board and are subject to the same attendance requirements as regular members with the same provisions

relating to excused absences being applicable. Alternate members shall not vote on any matter unless they are sitting to fill the position of a regular member of the commission who is absent or in the event of a conflict of interest; however, alternate members may participate in the discussion of matters coming before the board whether they are sitting as voting members or not.

(c) Removal provisions. All members of the shore protection board serve at the pleasure of the town council and may be removed from the board with or without cause. Members of the board shall be automatically removed for lack of attendance. Lack of attendance shall be defined as a failure to attend three regularly scheduled meetings in any one calendar year. Excused absence due to illness, a death in the family, religious holidays and requirements of legal process shall not constitute lack of attendance. The member shall notify the town manager's office in writing of the board member's intended absence at least seven business days prior to the regularly scheduled meeting. Failure to do so, absent an emergency which prevents timely notice, will cause the absence to be unexcused. Excused absences shall be entered into the minutes of the next regularly scheduled meeting of the board after the absence. A member may petition the town council, in the event of extenuating circumstances, to excuse an absence otherwise not automatically excused pursuant to the provisions of this Code.

(d) Frequency of meetings. The board shall meet on an irregular schedule, whenever such meetings shall be called either at the discretion of the chairman or at the direction of the town council.

(e) Officers, rules of procedure. The shore protection board shall elect a chairman and a vice chairman and may adopt procedures for the conduct of its meetings. Four voting members of the board shall constitute a quorum, however, the affirmative or negative vote of a majority of the entire membership of the board shall be necessary for it to take action.

(f) Advisory capacity. The shore protection board shall act in an advisory capacity to the town council and shall make recommendations to the town council on all matters relating to shore protection in the town including, but not limited to, issues relating to beach nourishment, coastal armoring, the sand transfer plant and matters relating to the town's Lake Worth Lagoon shoreline. In addressing these matters, the scope of the shore protection board's duties shall include long term planning, budgeting, lobbying, public education, and intergovernmental coordination."

Section 2. Severability.

If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

Section 3. Repeal of Ordinances in Conflict.

All other ordinances of the Town of Palm Beach, Florida, or parts thereof which conflict with this or any part of this Ordinance are hereby repealed.

Section 4. Codification.

This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach.

Section 5. Effective Date.

This Ordinance shall take effect immediately upon its passage and approval, as provided by law.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this ____ day of _____, 2017, and for second and final reading on this ____ day of _____, 2017.

Gail L. Coniglio, Mayor

Michael J. Pucillo, Town Council President

Richard M. Kleid, Council President Pro Tem

Bobbie Lindsay, Town Council Member

ATTEST:

Danielle H. Moore, Town Council Member

Susan A. Owens, MMC, Town Clerk

Margaret Z. Zeidman, Town Council Member

P:\DOCS\13156\00008\DOC\1R7121702.DOC