



TOWN COUNCIL MEETING

TOWN OF PALM BEACH

JANUARY 5, 2026

3:00 PM

TOWN HALL COUNCIL CHAMBERS, 2ND FLOOR | 360 SOUTH COUNTY RD | PALM BEACH, FL 33480

Danielle H. Moore, Mayor
Bobbie D. Lindsay, President
Lew Crampton, President Pro Tem
Julie Araskog
Ted Cooney
Bridget Moran

AGENDA

CALL TO ORDER AND ROLL CALL

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

COMMENTS

1. MAYOR AND TOWN COUNCIL MEMBERS
2. PUBLIC - 3 MINUTE LIMIT

For those unable to attend in person: [Submit a written comment](#) [Register to comment virtually](#)

PUBLIC HEARINGS

3. Consideration of Proposed Settlement with Warden House Association, Inc. in *The Condominium Association of Ocean Towers, Inc., et al. v. Town of Palm Beach*, Case No. 502022CA005042XXXXMB AN (15th Judicial Circuit in and for Palm Beach County, Fla.)

ANY OTHER BUSINESS

ADJOURNMENT

Access this meeting video on the 'Public Meetings' page at www.townofpalmbeach.com.

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

Disabled persons needing accommodations to participate in this meeting should contact the Town Clerk's Office at (561) 838-5416 at least one day prior to the meeting.

Memo

To: Mayor & Town Council

From: Town Attorney, Joanne M. O'Connor

Date: December 22, 2025

Subject: **Consideration of Proposed Settlement with Warden House Association, Inc. in *The Condominium Association of Ocean Towers, Inc., et al. v. Town of Palm Beach*, Case No. 502022CA005042XXXXMB AN (15th Judicial Circuit in and for Palm Beach County, Fla.)**

LITIGATION BACKGROUND AND STATUS

As you are aware, the Town has been in litigation since 2022 with several beachfront property owners in the area from Wells Road to Sunrise Avenue. Two separate cases have been consolidated for a special set trial before the Hon. Scott Kerner the week of **January 12th**:

1. *The Condominium Association of Ocean Towers, Inc., et al. v. Town of Palm Beach*, Case No. 502022CA005042XXXXMB AN (15th Judicial Circuit in and for Palm Beach County, Fla.) (the "Condo Case"). The parties to this case are the Warden House Association, Inc. ("Warden House") and the Condominium Association of Ocean Towers, Inc. ("Ocean Towers").
2. *Tiffany Dawn Cloutier, et al. v Town of Palm Beach*, Case No. 502022CA003744XXXXMB AN, pending in the Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida (the "Non-Condo Case"). The parties to this case were originally six (6) residential beachfront property owners. On December 15, 2025, two (2) of the six (6) voluntarily dismissed their claims: Harvey and Mary Ann Kinzelberg at 260 N. Ocean Blvd. and Keith A. Meister, as Trustee of the Robert A. Meister 2020 Irrevocable Trust at 101 Seminole Avenue.

The remaining plaintiffs in the Non-Condo Case are property owners at 240 N. Ocean Blvd., 110 Atlantic Ave., 117 Everglade Ave. and 120 Atlantic Ave.

E S T .
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These property owners own private dry sand beach parcels, upland of the Erosion Control Line in this area between Wells and Sunrise. They have sued the Town in two counts: (1) for a declaratory judgment that they have exclusive private use, and the public no recreational use rights, to their dry sand beach parcels; and (2) seeking monetary compensation and attorneys' fees for an alleged taking of their private property because the Town has, since 2021, recognized a traditional recreational use of the public to those dry sand beach parcels.

Additionally, Warden House and Ocean Towers seek a declaratory judgment that the perpetual easements they gave the Town in 2019 as part of the now federally authorized Mid-Town Beach Renourishment Project are void because they did not follow their own procedures when they approved those easements, presented to them to the Town. These easements remain recorded in the official records of Palm Beach County and were used for the 2020 sand placement.

PROPOSED SETTLEMENT TERMS

Following several months of settlement discussions, we have received the attached proposed settlement terms from Warden House. The terms have been reviewed with Town Staff, including Public Works, the Police Department, and the Town Manager who will attend the Special Town Council Meeting on January 5 to answer any questions you may have.

It is recommended that the Town Council accept the settlement terms offered by Warden House.

JMO:mtm

Enclosure

cc: Kirk Blouin, Town Manager
Wayne Bergman, Director of Planning, Zoning & Building
Paul Brazil, Director of Public Works,
Nicholas Caristo, Police Chief
Capt. Will Rothrock
Patricia Strayer, Town Engineer

Proposed Settlement Terms
As to Plaintiff, WARDEN HOUSE ASSOCIATION, INC., Only

- a. Town agrees that Beach property landward of Erosion Control Line (ECL) is private property of Plaintiff as depicted on Plaintiff's survey, Sketch of Conditions and Declaration of Condominium filed of record in this Case.
- b. Plaintiff will withdraw its objections to the 2019 Perpetual Construction Easement and ratify it retroactively. Town agrees that it will not object to or obstruct the current renourishment project from proceeding, which includes Plaintiff's Condominium Property.
- c. Town agrees that the legal description of "Easement Property" in Plaintiff's 2019 Perpetual Construction Easement was intended to, and only refers to, that certain portion of its privately owned beachfront area east of the 24" sea wall, as depicted on WARDEN HOUSE's Sketch of Conditions filed of record in this Case, and not the entire condominium ownership.
- d. Town agrees that it will not unreasonably withhold, condition or delay any consent, permit or approval associated with any subsequent valid and reasonable request by Plaintiff to construct a beach cabana above its seawall, similar to other beach cabanas situated on privately-owned beachfront property located on North Ocean Boulevard between Wells Road and Seminole Avenue.
- e. The Town understands that Plaintiff does not agree that there has been public customary use of its Privately-Owned Beachfront Parcel, but as part of this Agreement Plaintiff nevertheless agrees that members of the public (which may include individuals who are not Town residents) can use the Unimproved Dry Sand Beach of its Privately-Owned Beachfront Parcel for traditional recreational purposes other than those purposes identified below as Prohibited Public Recreational Uses and including, but not limited to the following: walking; jogging; fishing; sunbathing; building sand castles; sitting on a beach towel, blanket or beach chair; dogs off leash from dawn to 9:00 am (the "Off-Leash Hours") where they are clearly under the command of their owner or handler and where the dog is not creating a nuisance to other animals or persons using the beach; dogs on-leash outside of the off-leash hours; using a beach umbrella with a single pole and no greater than 9 feet in diameter; and using a baby tent or similar shading device designed for babies or small children no larger than 54 inches long, 35 inches wide and 26 inches high ("Child Shading Device") (the "Traditional Public

Recreational Uses”). Plaintiff agrees and acknowledges that the Town will not enforce trespass on the Unimproved Dry Sand Beach of its Privately-Owned Beachfront Parcel associated with such Traditional Public Recreational Uses.

- f. Town agrees that the following public recreational activities are prohibited on any portion of the Unimproved Dry Sand Beach of Plaintiff’s Privately-Owned Beachfront Parcel: use of bicycles (including E-bikes) and motorized cycles or vehicles of any kind; use of camping tents, beach tents, sun canopies/shelters and other similar items (other than a Child Shading Device contemplated in (e) above); use of tables of any kind; use of volleyball nets; conducting special events as defined in Section 106-256 of the Town Code¹; and off-leash dogs beyond the hours of dawn to 9 A.M. (“Prohibited Public Recreational Uses”).
- g. Notwithstanding Plaintiff’s concession regarding the Permitted Public Recreational Uses contemplated in (e) above, Town agrees and acknowledges that Plaintiff, as fee owner of its Privately-Owned Beachfront Parcel, has the property rights to prohibit unlawful activity by members of the public thereon; and further agrees and acknowledges that Plaintiff’s property rights include prohibiting disorderly conduct (Fla. Stat. § 877.03); indecent exposure (Fla. Stat. § 800.03); lewd and lascivious behavior (Fla. Stat. § 800.02); and other behavior contrary to state, county, and Town laws or ordinances committed on its Privately-Owned Beachfront Parcel, including without limitation, use of drugs, alcohol or smoking; use of fireworks (Town Code Sec. 46-79); and activities (such as loud music) contrary to applicable noise ordinances (Town Code Chap. 42, Art. V). Town further agrees and acknowledges that upon proper complaint by Plaintiff of violations of the afore-mentioned restrictions, including violations of Prohibited Public Recreational Uses contemplated in (f) above, Town Police will enforce said private property rights, pursuant to law and subject to its discretionary police power.
- h. Town acknowledges that the following traffic and parking enforcement policies and/or ordinances are currently in effect from Wells Road to Sunrise Avenue:
 - Parking and traffic enforcement on N. Ocean Blvd. between Wells Road and Sunrise Avenue (no stopping/drop-offs, standing, or parking);

¹ It should be noted, however, that Town Code Sec. 106-256 applies to any “public area or building” and that consistent with Par. a. herein, Town agrees that Plaintiff’s Privately-Owned Beachfront Parcel is private (not public) property.

- The east-west roads east of N. County Rd. between Wells Road and Sunrise Avenue (permit only);
- The 100-200 blocks of Sunrise Avenue (metered parking); and
- N. County Rd. between Wells Road and Sunrise Avenue (metered parking).

Town agrees to enforce these and other traffic and parking enforcement policies and/or ordinances pursuant to law and subject to its discretionary police power.

- i. Town agrees and acknowledges that Plaintiff may exercise all lawful uses of its Privately-Owned Beachfront Parcel, by itself and its guests, without restriction. However, Plaintiff agrees and acknowledges that the traffic/parking enforcement, as described in (h) above, will apply equally to Plaintiff, and its guests.
- j. Town agrees that there will be no further assertion by the Town of any common law public “customary use,” per *City of Daytona Beach v. Tona-Rama, Inc.*, as to Plaintiff’s Privately-Owned Beachfront Parcel. Town agrees not to promote or advertise any such “customary use,” or public recreational uses of Plaintiff’s Privately-Owned Beachfront Parcel, including without limitation, via social media platforms such as Facebook/Meta, YouTube, Instagram, TikTok, Snapchat, X/Twitter, and online maps platforms such as Google Maps.
- k. Town agrees that its Comprehensive Plan will continue not to depict Plaintiff’s Privately-Owned Beachfront Parcel as public recreational area.
- l. Town agrees that it will not seek a judicial declaration of public customary use as to Plaintiff’s Privately-Owned Beachfront Parcel, but reserves the right to assert and/or seek a judicial declaration of public customary use as to other privately-owned beachfront parcels and further reserves the right to assert in defense of claims brought by other privately-owned beachfront parcels that the public has customarily used the beach area between Wells Road and Sunrise Avenue.
- m. Town agrees to accept any post and rope demarcation of Plaintiff’s private property for protection of immature vegetation planted on the dune which is approved by Florida DEP. No other ropes or posts on beach areas will be placed by Plaintiff.

The Town agrees to enforce, pursuant to law and its discretionary police power, any trespass by the public on planted dune vegetation that is protected by any law or ordinance.

- n. Town agrees to cooperate with the removal of any reference to the Root Trail Beach Access Point as a “Public” access point on any online platform, as may be reasonably necessary. Town will remove the current sign at the entrance of the Root Trail Beach Access Point designating “Beach Access – Town of Palm Beach,” with the other existing signage to remain. The gate situated across the northern half of the Root Trail Beach Access Point will remain, as present, and will continue to be automatically locked by the Town each night via its electronic fob system.
- o. Town agrees and acknowledges that subsequent to any future beach nourishment, or re-nourishment, the public will only have such rights to use Plaintiff’s Unimproved Dry Sand Beach as contemplated by this Agreement, and no more, unless a separate written agreement executed by Plaintiff provides otherwise.
- p. Town agrees that it will not advertise or promote any public use or public easement rights based upon § 161.141, Fla. Stat. as to Plaintiff’s Privately-Owned Beachfront Parcel.
- q. Plaintiff will dismiss its inverse condemnation claim. Town will pay \$10,000 toward Plaintiff’s attorney’s fees and costs. Plaintiff will make no other monetary claims related to facts alleged in the Amended Complaint.
- r. No other admissions made by either Town or Plaintiff and no liability is assumed.
- s. Town agrees that neither this Agreement nor any provision herein, shall negatively affect or diminish any separate legal rights, claims, or remedies that any other Plaintiff in this Case or in the *Cloutier et al* Companion Case may have, including without limitation, Plaintiff OCEAN TOWERS’ challenge to the validity of its 2019 Perpetual Construction Easement.
- t. Town agrees this Agreement will be incorporated into a Final Judgment, reserving to the Court the jurisdiction to enforce the terms of Settlement.