



TOWN OF PALM BEACH

Town Manager's Office

MINUTES OF THE SHORE PROTECTION BOARD MEETING HELD ON THURSDAY, APRIL 26, 2018

1 **I. CALL TO ORDER**

2
3 The Shore Protection Board meeting was called to order on April 26, 2018, at 9:02 a.m. in the
4 Town Council Chambers.
5

6 **II. ROLL CALL**

7
8 On roll call, all of the board members and alternate board members were present with the exception
9 of Lewis Katz, Vice-Chair, who had an excused absence. Alternate member Jacoby will be voting
10 in the absence of Mr. Katz.
11

12 **III. PLEDGE OF ALLEGIANCE**

13
14 Chair E. Llwyd Ecclestone led the Pledge of Allegiance.
15

16 **IV. APPROVAL OF AGENDA**

17
18 Motion was made by Board Member Johnson, and seconded by Board Member Jacoby,
19 to approve the Agenda. The motion carried unanimously.
20

21 **V. DISCUSSION OF OFFICIAL MEETING RECORDS**
22 **[H. Paul Brazil, P.E., Director of Public Works]**
23

24 Public Works Director Paul Brazil stated at the last meeting, the Board inquired which
25 were the official records when it comes to the minutes, the audio or the minutes themselves.
26 Director Brazil informed the Board that, according to the Robert's Rules of Order, the
27 official record is the minutes. Director Brazil explained that Town Council decided to the
28 abbreviated minutes because there has been improvement with technology on how to
29 access the audio and individual topics in the audio. Director Brazil indicated that how the
30 minutes are produced now is the official record. The written minutes are not intended to
31 memorialize all conversations within the meeting; and are to show the actions taken by the
32 Board. Director Brazil also indicated, if there is an error with the minutes, we can revise
33 the minutes, so the official record is accurate. Director Brazil also added that the audio is

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1 posted on the website and will be linked to the agenda. You have the capability to access
2 agenda topics by clicking on that topic.

3
4 **VI. APPROVAL OF THE MINUTES OF THE MARCH 29, 2018 MEETING**

5
6 **Motion was made to approve the minutes. Board Member Jacoby seconded motion.**
7 **Motion to approve minutes unanimous.**
8

9 **VII. COMMUNICATIONS FROM SHORE PROTECTION BOARD MEMBERS**

10
11 Board Member Harvey Kinzelberg inquired about the Town's liability for the groins
12 replacement and express that. The Shore Protection Board needs a strategy in advance
13 assuming the Town will have liability. Does the Town only groins get replaced or contact
14 homeowner to execute legal forms to accept liability and exempts the Town from liability
15 for the replacement of the groin, or does Town generally accept liability with total groin
16 replacement? If so, has there been a study of injuries or incidents in the past 10-15 years.
17 The project has been delayed so long and so many times. We need to get ahead of the curve.

18
19 Public Works Director Paul Brazil will find out from Risk Management, but was personally
20 told of two (2) incidents.

21
22 Alternate Board Member Belmar stated that if we get a State permit will they give us the
23 easement and Town takes on liability? We are assuming liability and the State would not,
24 for the purpose to secure permit. He asked Mr. Weber if he was understanding that
25 correctly.

26
27 Coastal Program Manager Robert Weber replied that it is the understanding of Town staff
28 that the groins that are in place were not put in by the Town. Further, it is the understanding
29 of Town staff that if the Town is the permittee for it, we do not have the liability for those
30 existing groins in question. Outside of Mid-Town groins, the liability still lies with the
31 State because they were put in before easement was needed for regulatory permitting.

32
33 Director Brazil contacted DEP at the request of Town Council and they clarified an
34 easement will only be granted to the Town. If an individual property owner wanted to build
35 a groin, they would have to go through the same process. If the Town moved forward with
36 a Town-wide groin program, we will need a construction easement from the property
37 owner, a permit easement to have groin there from the property owner, and anything water
38 related, high tide will need a water submerge land easement that they will grant to the
39 Town. The Town will have a liability when the Town builds these groins that the Town
40 does not have today.

41
42 Discussion ensued regarding liability and permitting.

43
44 Director Brazil stated, based on the conversation with the State, the State feels they have
45 the liability because the structure is on State land and they do not have a record of a permit

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1 so they haven't given anybody an easement for it, so by default, their liability is where it
2 sits today. Mr. Brazil suggests staff to give another summary of the update of what was
3 heard by the State and will approach the U.S. Army Corps of Engineers with the same
4 question pertaining to liability. Director Brazil will report to Town Council any advice the
5 Board has and it will be brought to Town Council as well. He stated there are limits to the
6 Town's liability under Florida statute. Director Brazil asked Mr. Ecclestone if he would
7 want a stand-alone item at the next meeting. Chair Ecclestone indicated he would not.
8

9 Alternate Board Member Jacoby shared he was at a dinner party and someone brought up
10 the groins and they would like to replace them. The individual said I have grandchildren
11 and concerned about them swimming there that they are concerned about their safety.
12 Alternate Board Member Jacoby did not say a word, but wanted to report this. People who
13 have homes and have means and want to change groins they are unaware of what to do. It
14 would be valuable for homeowners who have groins on their property to get
15 communication from the Town indicating we are investigating this and what needs to be
16 done.
17

18 Director Brazil suggested to give himself or Coastal Program Manager Weber the
19 name/contact information so they can talk to them about alternatives. They can seek out
20 their permitting or we could help them.
21

22 Director Brazil replied it is. There were public workshops that were offered to homeowners
23 with no response. Town staff tried public outreach, and had no response but would gladly
24 try again, it may not be successful.
25

26 Chair Ecclestone continued the discussion indicating that Town Council direct Town staff
27 should put a hold on Federal permitting of groins until feedback was received on liability.
28 Chair Ecclestone would like a program set up. Chair Ecclestone shared that at the April
29 10th meeting of Town Council, Town Council directed Town staff to hold on permitting
30 until feedback was obtained regarding liability. Chair Ecclestone feels Town Council
31 should have been working on liability three (3) years ago when they agreed on this. He
32 contacted insurance agencies to see if they will do it and will have an answer in a week or
33 two from this meeting.
34

35 Director Brazil informed that Town staff has reached out to the State, and is going to
36 contact both the Federal Government and contact the Town attorney as well. Director
37 Brazil will also as seek out questions for our Risk Management department. Director Brazil
38 also shared we have a preliminary estimate, we do not have permits yet, but the estimate
39 from the consultant with be, at this time, \$20 million. Mr. Brazil said that is today's dollars
40 and is not certain what year the program will be completed.
41

42 Discussion ensued regarding Town liability.
43
44

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1 Director Brazil stated the Board could direct staff to make June deadline to report back on
2 liability issues to the Town Council and the Board can make a motion to advise Council
3 that they want to move forward with the program and relay concern about stopping.
4 Whatever advice to give Council now is the time.
5

6 Alternate Board Member Belmar stated the assumption is who ever built it has the liability.
7 Town Council should be able to get an answer right away. Town Council cannot decide
8 what to do in 6 months.
9

10 Director Brazil responded it is not for Town Council to decide, they directed Town staff to
11 get the information and bring it back.
12

13 Board Member Jacoby shared his impression, after hearing from the homeowner, they felt
14 it was the Federal responsibility not personal responsibility. People may want to replace it
15 on their own and need to know because it is taking long time. There is a sense of urgency
16 to get it done especially not everyone is here during the summer so if anything can be done
17 between now and December that would benefit everyone.
18

19 Board Member Johnson supports the Council hold and to do what is necessary. We should
20 have known and understood the liability and he supports the Town Council's hold and not
21 to rush ahead. We should stop take a look, and understand. All questions should be
22 answered before going ahead.
23

24 Board Member Kinzelberg included we need to make a decision assuming the attorney
25 says we are liable, how do we handle they mean high-water line dry stand liability with the
26 homeowner, that decision should be made ahead of time while attorney puts together his
27 opinion, we should wait then we can be ready to say here is out position.
28

29 Board Member Kinzelberg agrees with Board Member Johnson.
30

31 Chair Ecclestone does not agree with Board Member Kinzelberg he does not think the
32 homeowners should take on responsibility and we should call upon Mr. Randolph to get an
33 opinion.
34

35 Alternate Board Member Belmar suggested to make a motion to Town Council to let the
36 Board get the permit. Council will decide when and how to go forward.
37

38 Coastal Program Manager Weber replied we will need to issue a change order to the
39 original contract for a consultant and would be an additional \$10,000 to \$14,000.
40

41 Director Brazil shared there is not an additional cost, just costing more to get permit.
42

43 Board Member Kinzelberg proposes to Council to move forward to get permit and the
44 Town assumes all liability of groins to move forward.

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Motion was made by Board Member Harvey Kinzelberg to move forward with getting permits. Board Member Gavigan seconded the Motion.

Discussion ensued.

Board Member Johnson opposes and suggests getting property owners involved. Homeowners should have some liability as well. Board Member Baker agrees, public and private are two different things. A greater definition of public and private needs to be defined.

Alternate Board Member Belmar asked can we modify the motion to have the Town repeal the direction and not pursue the Federal permit and issues do not be decided today but pursue getting the permit.

Motion was revised by Board Member Kinzelberg into two (2) separate Motions. Board Member Ceriale seconded revised Motion.

Motion 1 – Shore Protection Board recommends Town Council to move forward with securing the Federal permit. Motion passed unanimously.

Motion 2 – Shore Protection Board recommends to Town Council that they assuming all liability for newly constructed. Motion passed 4-2 with one member abstained.

Director Brazil will bring two recommendations to Town Council and will include motions.

Director Brazil mentioned to keep in mind the groin is storm protection for the Town. Town-wide effort if program is geared to protect shoreline the benefiting of an individual goes away.

Board Member Ceriale shared that she is looking forward a Friends of Palm Beach speech and informed that there is a cleanup and asked for everyone to support as it is a nonprofit. Mr. Kinzelberg wants to add that the Town provide. Friends of Palm Beach with parking permits to get their vehicles closer to beach to facilitate moving the debris they are taking off.

Motion was made to provide parking permits to the Friends of Palm Beach. Board Member Kinzelberg seconded motion. Motion passed unanimously.

Director Brazil suggested people put a note on their dashboards and the Police Department will enforce it.

VIII. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

Diane Buehler, Friends of Palm Beach, announced an upcoming beach cleanup.

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Tom Warnke made comments regarding Innovative Technologies.

IX. COASTAL PROJECTS UPDATE

[Robert Weber, Coastal Program Manager]

Mid-Town Groin Project

Coastal Program Manager Weber stated this project is well underway. The contractor brought in about 9,500 cubic yards of sand in order to provide enough dry beach platform to construct groin. The groin should be about 145 feet long. Marine mattresses are being laid and filled with smaller rocks and larger rocks will go on top of it. This should be completed by May 15th. The project is on schedule and on budget.

Dune Maintenance

Coastal Program Manager Weber shared that the supplier has been contacted, it takes about four (4) months for the plants to mature. They indicated there is no cost savings if they paid for the plants now. There is greenhouse space and trucking space needed if they move them. It will be moved forward, plants will be solicited as a bid.

Board Member Johnson had concern for any additional cost. Weber noted that getting a plant that is more mature for a less cost. If get a root ball will go down to 4" deep and will be about \$2.00.

Board Member Ceriale asked what is the benefit to buy a \$2.00 as opposed to a \$4.00?

Weber shared that \$4.00 plants hold about 18 per tray or you can get a 50 per tray. The plants for \$2.00 and \$4.00 are the same height.

Alternate Member Lorentzen agrees \$2.00 option is a good option. Does as smaller root ball decrease their resistance during storm activity?

Weber replied the root ball is 4" deep. It is down enough with high chance of survival.

Board Member Ceriale asked if the warranty issues is the same. Mr. Weber said yes it is in the contract.

Reach 8 EIS

Coastal Program Manager Weber said as mentioned the Board asked for additional information from the Corps of Engineers. One of our consultants is bringing that together and once we have that it will be brought to Town Council for approval so we can move forward with project.

Chair Ecclestone asked in the case of a hurricane, if the Town was working with FEMA on the EIS project.

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1 Weber replied what is constructed there are different options with EIS will dictate what
2 FEMA will reimburse we would be in for. We are working with FEMA to secure funds for
3 Reach 8.
4

5 Public Works Director Brazil said we could not have done anything more to get the permit
6 unless we did the EIS. EIS allows limited amount of sand in the water becomes an engineer
7 project, your likelihood of eligibility goes way up. Director Brazil informed that the Town
8 can seek reimbursement for dune project if money is there. It was decided years ago to
9 move forward with EIS. APTIM will bring cost savings.
10

11 Mid-Town Mitigation
12

13 Coastal Program Manager Weber right now is close to getting permit on the Federal side
14 and close on the National Marine Fisheries Service. There will be a lot of movement to
15 come to an end. Continued that the details are going over with ATM to come to consensus.
16 Result should be in a few weeks. There is hope to get all permits in place in the coming
17 months. You will see in the budget spent in FY19 its shown as we are going to spend it as
18 it is there from a previous budget. State requirement not Federal requirement from 2003
19 and 2006 projects there were temporary impacts that needed to be mitigated for. It was a
20 temporary loss.
21

22 Director Brazil Mid-Town was built in 2003, there were hurricanes in 2004 and 2005 and
23 the Town had FEMA money, Mid-Town did not require any mitigation. The sand moved
24 everywhere there was a lot of negation between the Town and the State. There was a lot of
25 back and forth, they came up with rocks in the water that is what mitigation is and gets
26 expensive fast and there were a lot of impacts and a hard time to determine which storm.
27 The \$3 million is for the "rocks" in the water. We are having a hard time getting a Federal
28 permit to do the State mitigation. It will be in Reach 5.
29

30 Alternate Member Lorentzen asked what is depth that is being placed? Mr. Brazil what was
31 impacted has a shallow component and a deeper component so the artificial reefs need to
32 have a shallow component. The Army Corp. likes it shallower and DEP likes it deeper.
33

34 Board Member Kinzelberg asked was old concrete forms dumped along our shore? Mr.
35 Brazil responded that some in lagoon some off shore. Some areas have been marked as a
36 good location for that.
37

38 Groin Rehabilitation
39

40 Coastal Program Manager Weber described the permitting chain of command.
41

42 Board Member Ceriale asked what the permits is, what is outstanding, and what is being
43 waiting on.
44

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Coastal Program Manager Weber replied that the Town is waiting on a Record of Decision from the U.S. Army Corps of Engineers. Mid-Town mitigation with National Marine Fisheries Service. The groins permitting is the same situation as Mid-Town Mitigation project which is with the National Marine Fisheries Service.

Discussion ensued.

Director Brazil responded that in the past people reach out and it leads to mix messages and slows the process down. It was decided long ago the Mayor is the point of contact. It is hard to properly motivate National Marine Fisheries Service. They probably have another client in the same position.

X. INNOVATIVE TECHNOLOGIES DISCUSSION

[Robert Weber, Coastal Program Manager, Thomas Pierro, P.E., APTIM, Inc., and Michael Barnett, P.E., Tetra Tech, Inc.]

Coastal Program Manager Weber introduced both guests, Director of Operations, Thomas Pierro, for APTIM, and Mr. Michael Barnett from Tetra Tech.

Mr. Pierro conducted presentation. Mr. Barnett continued thereafter.

Discussion ensued.

XI. CONTINUED DISCUSSION FOR 2018 SHORE PROTECTION BOARD GOALS

[Robert Weber, Coastal Program Manager]

Coastal Program Manager Weber expressed that at the last meeting a list was provided based on input that Town staff received from various individuals from the Board. Town staff put together some suggested action items to achieve those goals. (1) Reflect on the current 10-year plan and have a summary of project measures and town staff will put together a table of all projects that were accomplished. (2) Develop and recommend the rolling 10-year plan - the next agenda item is a FY19 budget plan. The FY19 budget will include the remaining of the 5-year adopted plan. (3) Best practices done by others.

Coastal Program Manager Weber continued, the next item is (4) evaluate and make a recommendation for Reach 8 - we are receiving a proposal from APTIM to help us with the REI process with the Corp. Once we have this process hopefully will provide enough information for the Board to bring to Council. (5) Evaluate and make a recommendation to replace the sand loss from the 2016 and 2017 storms. Town staff is working diligently with FEMA to secure relief funds from Hurricane Irma. (6) Become familiarized with the budget and the budget process that will be the next item. (7) Stabilizing the shoreline with The Breakers, tomorrow is the Technical Advisory Committee Meeting the goal is to find a solution as soon as possible as this year.

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1 Discussion ensued.

2
3 Mr. Weber continued next item (8) Make a definitive recommendation to Town Council
4 regarding the groin rehabilitation plan the board took action today. (9) Search for more
5 offshore sand as we get into the later years, the out years of current plan show a search
6 effort which you will see in the budget. (10) Improve internal communications this was an
7 item that the Board discussed pertaining to holding a public workshop at some point in the
8 future. Coastal Program Manager Weber asked if there were any other questions.

9
10 Board Member Johnson had a question regarding FEMA - when they get involved how do
11 we get them to chip in for our cost.

12
13 Coastal Program Manager Weber replied if it is a State of emergency - FEMA funds will
14 kick in for that. Beaches were biggest portion and if that event was considered by the State
15 that warrants FEMA to participate. The governor puts forth the ask and the Federal
16 government will comply.

17
18 Director Brazil indicated 75% will be reimbursed; the Federal government can decide not
19 to fund a Federal emergency.

20
21 No motion to approve the goals was made.

22
23 **XII. RECOMMENDATION TO TOWN COUNCIL REGARDING THE PROPOSED**
24 **FY 2019 COASTAL MANAGEMENT PROGRAM BUDGET**

25 [H. Paul Brazil, P.E., Director of Public Works]

26
27 Public Works Director Brazil began with the Adopted Coastal Management Budget.
28 Proposed budget for 2019 what you are recommending to Council funding for fiscal year
29 2019. Council will approve a budget and changes will be made during the year. Tracking
30 FY18 vs. FY19 - are we spending more than anticipate. Explain why you did not spend or
31 spent over. FY19 proposed - different then what was anticipated. Feeder beach concept -
32 sand going in Reach 1 and Reach 2 and sand going in regularly at Mid-Town and at Phipps
33 - they all had storm damage - we have FEMA reimbursement available to us from Matthew
34 would probably be funded in 2019 and Irma FEMA money will be in 2020 and Mid-Town
35 project in 2021. We have funding coming in earlier than anticipated building Mid-Town.
36 Staff is proposing that we bring projects together, we get FEMA money and minimize town
37 expenses and take advantage of FEMA money and get us on a good schedule, our goal is
38 to have Mid-Town happen one year and 4 years later we would do Phipps, we wanted a 4-
39 year gap between two projects. We may be able to force 4-year gap by doing Mid-Town
40 earlier and beef up Phipps and have it last longer than anticipated. We want to change the
41 schedule a bit. The out years of 4-years, 4-years, 4-years and beefing up Reach 8 regardless
42 of what happens with EIS. If it is decided to put sand in Reach 8, this approach lets us take
43 care of Reach 8 at the same time. The first is \$3.8 million that is in Reach 2 the extended
44 exposure area so the Army Corp. In the last 5-years evolved in many ways. There is an

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1 existing program approved by Town Council a 10-year program that we are half way
2 through. FY2014 through FY2023 is the adopted program from Town Council. There is a
3 reconciliation every year.
4

5 Director Brazil shared he will be sitting with the Town Manager, Director Brazil's first
6 step, and he will have reviewed it and he will make the necessary changes. Director Brazil
7 also shared that the spreadsheets need to be compiled and we cannot do anything else in
8 that meeting other than the budget. Start with Council's original program. Town staff can
9 show where we are today. Council has discretion to leave it in the fund. The Council has
10 looked at levelized funding. They are currently funding it year-by-year. Director Brazil
11 said what is done in the past, it is a series of spreadsheets and takes time. Start with
12 Council's original approval. When dredging went through the roof. The Council has
13 discretion to leave it in fund.
14

15 Board Member Johnson spoke that he attended a Town workshop where they talked about
16 Town budget. One of the funds they had was the Coastal Management Program Fund there
17 is \$13 million. Director Brazil responded that offsets the need for transfers. Director of
18 Finance, Jane Le Clainche is doing her job for a healthy long-term plan. The 309 Fund is
19 where the money is.
20

21 Board Member Kinzelberg questioned the seawall replacement indicates a million dollars
22 a year and \$500,000 a year for groin rehabilitation/replacement. Director Brazil replied that
23 they are intended to accrue money, in the Pay-As-You-Go program, there are projects
24 identified but to levelize the funding we are accruing money over time. If the Board wants
25 to make a recommendation to Council to change the funding from priority to groins from
26 seawall, you can make that recommendation; however, there is a liability with the seawalls.
27

28 Board Member Kinzelberg asked is money being taking out of a cash fund and being
29 invested in a surrogated account. Director Brazil responded that the general fund the Town
30 collects taxes and other revenues every year, that general fund, it funds individual programs
31 and if the program comes below budget, Council can move money to another fund for
32 another reason.
33

34 Money in the budget is to repair Town owned seawalls. The Town has always funded thus
35 program but they always funded whatever is needed to get projects done. Only money
36 taken out is the Accelerated Capital Bond money that came in for structures and we could
37 not be spent. Council only takes out money before we are ready to spend it.
38

39 Alternate Board Member Belmar suggested setting up a meeting just for this.
40

41 Board Member Kinzelberg added \$500,000 a year for groins is not enough money. He
42 would like to see the actual potential cash expenditures in the appropriate years. Director
43 Brazil replied that an assumption will be when permit comes in that will trigger when we

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1 go to construction. Alternate Board Member Belmar added another reason not to have a
2 hold on remaining federal permits.
3

4 Director Brazil asked are we going to start with the original program and that was the first
5 recommendation that went to Council and Town Council adopted it, and show evolution
6 of what Council adopted over time, the changes when and why. Town staff show a separate
7 sheet, will show impact on what we believe the groin program, if implemented, will
8 actually be and what that does to the bottom line and then try to segregate seawall work
9 bond interest money that we're paying now. Director Brazil shared that Director Brazil and
10 Coastal Program Manager Weber help Jane Le Clainche with revenues, the rest is provided
11 by finance. Director Brazil said we are months ahead of what finance is transferring in. We
12 need to look at out years, do they make sense and how much do you think the Town spend
13 in 2019.
14

15 Coastal Program Manager Weber included we are building a big groin in the middle of sea
16 turtle nesting season, we are monitoring daytime and night-time it wouldn't be possible if
17 we didn't do the monitoring, the work is necessary.
18

19 **XIII. HISTORICAL AND CURRENT SHORELINE CONDITIONS**

20 [Robert Weber, Coastal Program Manager]
21

22 This item was deferred to the next Shore Protection Board meeting.
23

24 **XIV. SCHEDULING OF FUTURE MEETINGS**

25 [H. Paul Brazil, P.E., Director of Public Works]
26

27 Chair Ecclestone would like to discuss budget meetings.
28

29 Public Works Director Brazil advised, based on the Board's availability, Staff will work
30 around that. Thursday, May 24th, is available and we will book the room to start at 9:00am.
31

32 Board Member Cerialle inquired about future meetings.
33

34 Director Brazil replied if we get through the budget meeting, the next meeting will not be
35 until
36 October, October 18th, unless the Board would like to schedule a meeting before then.
37

38 Board Member Cerialle replied she would like a workshop scheduled that would be a little
39 less informal.
40

41 Director Brazil indicated that we need to get through budget then schedule the workshop.
42 The next meeting would be Thursday, October 18, 2018.
43
44

XV. ANY OTHER MATTERS

There being no further business, the Shore Protection Board of April 26, 2018, was adjourned at 1:04 p.m.

Shirone

Meeting audio is located at:

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