



TOWN OF PALM BEACH

Office of The Town Clerk

REPORT OF THE ADMINISTRATIVE & PERSONNEL COMMITTEE HELD ON WEDNESDAY, SEPTEMBER 29, 2010

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I. CALL TO ORDER AND ROLL CALL

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3 The meeting of the Administrative and Personnel Committee was called to order at 9:30 a.m. on
4 September 29, 2010, in the Town Council Chambers, 360 S. County Road, Palm Beach. On roll
5 call, Chairman Richard M. Kleid and Committee Member David A. Rosow were present.

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7 Mr. Charles Langley represented himself, Town Manager Peter Elwell represented the Town of
8 Palm Beach, and Attorney Peter Sampo represented the Administrative and Personnel
9 Committee.

10

II. APPROVAL OF AGENDA

11

12 **The Agenda was approved as presented.**

13

III. PRESENTATION OF TOWN MANAGER'S CASE [PETER B. ELWELL, TOWN MANAGER]

14

15 Town Clerk Cunningham administered the oath to Town Manager Elwell.

16

17 Town Manager Elwell presented the reasons why he took the action that he did. There was some
18 information that was directly relevant to the completion of the investigation and the findings he
19 made that will be background information.

20

21 He outlined the documents that he had submitted:

22

- 23 • The Administrative Investigative Report
- 24 • Exhibits A-H
- 25 • Mr. Langley's evaluation of Steve White for 2006-2007
- 26 • Mr. Langley's evaluation of Steve White for 2007-2008
- 27 • Mr. Langley's written appeal, date stamped into Human Resources July 28, 2010

28

29 Town Manager Elwell explained that Mr. Langley's appeal alleged that he was a fall guy and
30 suggested that his demotion was excessive punishment. He intended to demonstrate that his
31 actions and decisions were appropriate and his decision to demote Mr. Langley to senior project
32 engineer was directly linked to the findings of the investigation. The investigation included three
33 separate elements:

**REPORT OF THE ADMINISTRATIVE AND PERSONNEL COMMITTEE MEETING
HELD ON WEDNESDAY, SEPTEMBER 29, 2010**

- Police investigation
- Crowe Horwath independent forensic audit
- Town Manager Elwell's first hand review with the assistance of Human Resources Director Danielle Olson.

Town Manager Elwell assured the Committee that there was no rush to judgment and confirmed there was no pre-conceived outcome, not with regard to Mr. Langley or anyone else. It was a complicated matter and required an exhaustive investigation.

The bottom line. as it related to Mr. Langley, of terminating his employment would have been too harsh of a penalty, but lesser punishment than the demotion, would have been too lenient and not protective of the Town. Town Manager Elwell stated that the demotion reflected Mr. Langley's accountability for matters that were within his control as Steve White's supervisor during the period of time that Steve White was suspected of stealing from the Town.

Town Manager Elwell asked to clarify for the record his not saying "suspected of and alleged" each time that is referred to in the probable cause affidavits and the other documents related to Steve White and his conduct. He wanted to acknowledge that Mr. White was in the midst of seeking his due process with the court system, and was innocent until proven guilty. It was important to note, if they were being very careful that they should be saying alleged or suspected, but if it is omitted, please imply the same.

The next part of Town Manager Elwell's presentation included five parts with brief background information and confirmation of what happened in April 2010. They were:

- The background to the issues
- Immediate actions and investigations
- Conclusions of the investigation
- The actions Town Manager Elwell took and why
- Addressing particular concerns from Mr. Langley's appeal document

Mr. Langley did not have any cross examination.

Town Manager Elwell did not present any witnesses.

Attorney Sampo asked Town Manager Elwell for clarification about the documents that the Committee received in advance, and who created the Administrative Investigation Report. Town Manager Elwell indicated that the Administrative Investigation was prepared by Human Resources Director Danielle Olson and Town Manager Elwell, but he was ultimately responsible for it, pursuant to his duties as Town Manager.

Attorney Sampo asked him to explain the attachments. Town Manager Elwell responded that there were Exhibits A-H that were labeled. The conclusions and findings that were in the Administrative Investigation Report and the attachments were all part of the fullness of the reports.

**REPORT OF THE ADMINISTRATIVE AND PERSONNEL COMMITTEE MEETING
HELD ON WEDNESDAY, SEPTEMBER 29, 2010**

1 Attorney Sampo next asked Town Manager Elwell about the interview he had with Mr. Langley
2 prior to placing him on administrative leave. Town Manager Elwell stated that he had met with
3 Mr. Langley personally when he was imposing the disciplinary action. Mr. Langley stated that he
4 may not have done an adequate job in supervising the field work. Town Manager Elwell
5 clarified that he (Elwell) did not say he was not a good supervisor. This was contradictory to
6 what Mr. Langley was stating today.

7
8 Attorney Sampo, for purposes of this proceeding, asked whether there was any dispute of the
9 underlying facts and issues with Mr. White.

10
11 Town Clerk Cunningham administered the oath to Mr. Langley. Mr. Langley agreed that there
12 was no dispute. He thanked Town Manager Elwell for addressing the innocence of Mr. White in
13 the beginning of his remarks, but did feel based upon the evidence, that kickbacks did occur.

14
15 Chairman Kleid asked about the creation of the Senior Project Engineer position, since it had not
16 existed previously. Town Manager Elwell responded that Mr. Langley was a very capable
17 engineer and he had confidence in his abilities. He also did not want to terminate Mr. Langley,
18 and, instead, took away his supervisory duties and created the new classification. He eliminated
19 the Assistant Public Works Director position that he formerly held, but created a new title and
20 position.

21
22 Committee Member Rosow had no questions.

23
**IV. PRESENTATION OF CHARLES R. LANGLEY'S CASE [CHARLES R. LANGLEY,
SENIOR PROJECT ENGINEER]**

24 Mr. Langley began by stating that this was an awkward situation and he apologized for taking up
25 the Committee's time. He had wanted to appear before the Grievance Committee, but because
26 Town Manager Elwell is the Chair of that Committee, he was referred to appear before this
27 Committee.

28
29 The entire process had been devastating to him. Mr. Langley stated that on April 14, 2010, he
30 was called into work early and met with the police and the State Attorney's office, and was
31 crushed when he was told he would be placed on administrative leave and was shocked
32 throughout the entire process. He did not know of anyone that would have known that Steve
33 White allegedly had been taking kickbacks. He could not state that strongly enough.

34
35 He expressed his disappointment in not being able to obtain specifics about what policies he had
36 violated, and when, where and what and how did Steve White violate the purchasing procedures.
37 He stated that he felt he was the fall guy. He read from a back up memo that was provided to the
38 Town Council from Public Works dated April 8, 2008 regarding contract negotiations for hourly
39 work based on acceptable proposal or lowest bidder. The town Council voted upon it, but it was
40 never placed into the purchasing manual. He stated he had nothing concrete from the Town to
41 react to. He expressed his frustration.

**REPORT OF THE ADMINISTRATIVE AND PERSONNEL COMMITTEE MEETING
HELD ON WEDNESDAY, SEPTEMBER 29, 2010**

1 Mr. Langley discussed the process of approving Change Orders and how he reviewed them. He
2 noted that a 5-10% difference in price would not have triggered him to be alarmed, considering
3 the overall price of the project. He added that large change orders were ultimately approved by
4 the Town Council.

5
6 He brought up the Holiday Decorations project that was broken up into several smaller projects
7 to circumvent the bidding process. Committee Member Rosow corrected Mr. Langley and
8 indicated that due to the short time frame, the Town Council voted to waive normal purchasing
9 procedures for that particular project. Mr. Langley indicated he was unaware of that and had
10 refused to work on the project.

11
12 Mr. Langley brought up the pre-approved contractor purchasing procedure, because it had been
13 eluded that this contributed to the ability of Steve White to collude with the contractors. He
14 maintained that it was the implementation of the town policy that allowed negotiation with single
15 contractors as being probably the sole reason why Steve White was able to collude.

16
17 Mr. Langley also cited the large volumes of work and pressured time-lines to finish projects
18 quickly. He denied having lack of supervision over Steve White. He stated that the Crowe
19 Horwath report stated several times in the internal audit report, and at a Town Council Meeting,
20 that internal controls could not prevent collusion. He did not know how the Town expected
21 Chuck Langley to catch collusion.

22
23 Next, Mr. Langley named Town Employees to call as witnesses.

24
25 Town Clerk Cunningham administered the oath to all those who would be providing testimony.

26
27 The following witnesses were called:

- 28
29
 - Lynda Venne, Purchasing Agent
 - 30 • Paul Brazil, Director of Public Works
 - 31 • Cheryl Somers, Assistant Finance Director
 - 32 • Doug Terry, Water Resources Manager
 - 33 • Paul Brazil (recalled for second appearance)

34
35 The Committee Members and Town Manager Elwell were permitted to ask questions of the
36 witnesses during their testimony.

37
38 Mr. Langley also highlighted many of the large projects he had successfully worked on: Worth
39 Avenue, Par 3 Renovation, and others. At no time were there any complaints from any
40 contractors, residents or employees regarding his supervisory abilities.

41
42 Mr. Langley stated that the Town used to do \$3-5 million per year in public works projects and
43 now were doing \$14 million a year in projects. He noted that out of \$5 million in total projects,
44 \$250,000 was a small number to be able to catch as an overage.

45
V. REBUTTAL BY TOWN MANAGER [PETER B. ELWELL, TOWN MANAGER]

**REPORT OF THE ADMINISTRATIVE AND PERSONNEL COMMITTEE MEETING
HELD ON WEDNESDAY, SEPTEMBER 29, 2010**

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2 Town Manager Elwell provided his closing statements and refuted some of the testimony that
3 Mr. Langley provided. He noted that the Town had refused to meet privately with Mr. Langley
4 after his appeal was filed. This was standard procedure. Secondly, Town Manager Elwell took
5 issue with the assertion that Mr. Langley had not received a concrete response from the Town
6 regarding the policies that had been violated. It was stressed that Mr. Langley was the supervisor
7 for Mr. White. The reason there was not an item by item list of the violations was because
8 Crowe Horwath did a sampling of the contracts that Steve White was involved with rather than a
9 costly and time consuming audit of all contracts. Thirdly, there was no institutional attempt by
10 the Town to circumvent the purchasing rules and manual. The example provided by Mr.
11 Langley, was a situation that was approved by the Town Council and it was understood there
12 would be a waiver of the normal procedures.

13
14 Town Manager Elwell stated there was nothing that Mr. Langley or the witnesses presented
15 today that changed the appropriateness of the discipline. He said that with regard to the
16 demotion, the testimony reaffirmed why he concluded that Mr. Langley was a capable engineer,
17 and does have tremendous experience and performed well as an engineer. He completely agreed
18 with that testimony. He can continue to offer a tremendous value to the Town.

19
20 Town Manager Elwell urged the Committee to uphold his decision to demote Mr. Langley with
21 an 18% pay cut, as he was ultimately responsible for the supervision of Steve White. Mr.
22 Langley should have questioned the pricing of the contracts. He asked again to affirm his
23 decision to demote Mr. Langley from Assistant Director of Public Works to Senior Project
24 Engineer and the accompanying salary decrease.

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26
27 VI. REBUTTAL BY CHARLES R. LANGLEY [CHARLES R. LANGLEY, SENIOR
28 PROJECT ENGINEER]

29 Mr. Langley provided closing statements. He stated that his fate hung on a couple of areas. One
30 was his inability to catch the inflated pricing that was approved for change orders. The pricing
31 was within the parameters as noted by Public Works Director Brazil of 5-10%, which is the
32 industry norm. \$250,000, out of five million dollars in total project costs, did not stand out as a
33 serious number. Mr. Langley clarified that he was not stating that \$250,000 was not money that
34 the Town had lost, he was saying that the total value (5-10%) would not have triggered any
35 alarm which he would have been expected to catch.

36 Mr. Langley stated that the Crowe Horwath audit indicated that internal controls cannot catch
37 collusion. Mr. Langley stated that he did not catch it. Mr. Langley's boss (Mr. Brazil) did not
38 catch it. No one did.

39 Regarding Mr. Steve White circumventing purchasing procedures, this was not answered,
40 according to Mr. Langley. He stated that he has not received any details and it was alluded that
41 they are in the report, but no one had pointed them out to Mr. Langley. He noted that he was not
42 looking for a hundred, but no one has pointed out any purchasing violations to him. There was
43 language in the report that people thought there were violations.

**REPORT OF THE ADMINISTRATIVE AND PERSONNEL COMMITTEE MEETING
HELD ON WEDNESDAY, SEPTEMBER 29, 2010**

Mr. Langley stated that he was being demoted on people's words. There was nothing for him to react to. He was greatly bothered that he was not considered capable of supervising people. He supervised five people from the date he was hired. He had not had any problems with regard to the supervision of people. He stated that it was not fair to be demoted because Steve White colluded and stole money. It was wrong that he (Mr. White) did that, and it was wrong that Mr. Langley was being demoted for that.

Mr. Langley informed the Committee that they had seen and heard that he was a very capable, hard-working employee. He stated that his punishment was excessive to be demoted, and an eighteen percent pay cut was excessive. He had saved the Town hundreds of thousands of dollars by value engineering projects. He stated that he had slaved for the Town. Steve White stole money and Mr. Langley was paying the price. That was why he felt like he was the "fall guy". He noted that it looked really good in the newspaper, to have somebody that the Town could find at fault, for someone stealing money. He stood out, as he was the new guy.

Mr. Langley thanked the Committee for their time, respected Town Manager Elwell, and he was more than kind throughout the process, and he will respect the Committee's decision. Whatever they decide, he would live with. He added that he was a team player, he had not cut back on the level of his work since he was demoted, not one bit. He has been asked questions, he has provided guidance to others if needed, and he has not cut back, even though he was professionally and financially hurt. He planned on being with the Town for another five years. Whatever the Committee decided, he would live with it. He again thanked the Committee for their time.

VII. CONSIDERATION BY THE ADMINISTRATIVE AND PERSONNEL COMMITTEE

Chairman Kleid announced that the Committee would go into executive session.

Attorney Sampo directed the Committee to make recommendations based on the question of whether there was just cause, in accordance with the terms of the Town's Personnel Manual, for Mr. Langley's demotion. In looking at the issue, the burden of the Committee is to make findings, based on competent and substantial evidence, hearsay evidence could be considered, to support other findings which were based on competent and substantial evidence, but could not alone support a finding. Once those findings were made, it would be incumbent upon the Committee to make a recommendation to the Town Council as to whether or not the Committee believed there was just cause for the demotion. In the event the Committee determines there was not, then the Committee would be charged with making recommendations as to what should be done, other than a demotion, if that was the direction the committee desired. At the conclusion of the deliberations, a set of findings and recommendations would be prepared, and the Chairman would sign those findings.

Committee Member Rosow commented that he read all of the documentations, and he had been aware of what had been going on since he received the phone call about Steve White's arrest. He also had the opportunity on numerous occasions to speak with Town Manager Elwell many times about the situation, and asked him many times to make a decision and move on. He had asked him to move on and let the three people (on leave) return to work or not. Town Manager Elwell

**REPORT OF THE ADMINISTRATIVE AND PERSONNEL COMMITTEE MEETING
HELD ON WEDNESDAY, SEPTEMBER 29, 2010**

1 kept telling Committee Member Rosow, and this was an important element in today's discussion,
2 that he was not ready, and that he wanted to have more facts, interview more people and make
3 certain that what he was going to do was proper.

4
5 Committee Member Rosow did not believe that there was any rush to judgment by Town
6 Manager Elwell. If anything, Town Manager Elwell provided more time than someone else
7 would have done. Much of what was presented by Mr. Langley was either an attack on the
8 system, the system did not work, and that was the fault, or that he was a good employee and had
9 done wonderful things for the Town, but no where did they hear about his supervision of Steve
10 White. That was the only issue that the Committee was here to discuss. Whether or not Steve
11 White colluded and stole money, and whether it was one percent, five percent or ten percent was
12 irrelevant. He stole money from the Town.

13
14 Committee Member Rosow stated that it was everyone's obligation to prevent that from
15 happening. He had experienced, in his own professional career, collusion where employees had
16 attempted to gain the system. In each instance, it was discovered by accident and in each time the
17 supervisor suffered a demotion or cut in pay, whereas the guilty person was terminated. The
18 buck stops somewhere, and it does not stop with Public Works Director Paul Brazil, unless Mr.
19 Langley was doing the colluding. If Mr. Langley was doing something illegal and Mr. Brazil did
20 not catch it, he would be sitting in Mr. Langley's seat. If Mr. Brazil did it and he was not caught,
21 then it would be the Town Manager sitting here.

22
23 In his opinion, the issue was not that Chuck Langley was the fall guy, but that Steve White was
24 not properly supervised. Committee Member Rosow added that Mr. Langley had stated that there
25 was not any evidence that he was not properly supervised. He disagreed. He had asked
26 questions, and some of Mr. Langley's answers were, quite frankly, troublesome. That is, it fell
27 within the range and it was ok. But if there were continuing change orders and there were a
28 select few people who were given these certain jobs, anyone with any common sense would look
29 at it.

30
31 Committee Member Rosow looked very carefully at Mr. Langley's performance evaluations and
32 tried to track them through. He also reviewed Steve White's evaluation where he had a two and
33 the went up to a three and no one ever explained why he went up to a three. He thought that at
34 some point a supervisor has to always question whether or not his or her employees were doing
35 the right thing. It seemed to Committee Member Rosow that Mr. Langley only questioned
36 significant change orders. In his opinion, all change orders were significant. In his mind, all
37 contracts that are being let are important to supervise and to make certain that the numbers that
38 were being presented were fair and accurate.

39
40 Committee Member Rosow said he was not convinced that Mr. Langley had adequately
41 supervised Steve White. He added that he was very, very concerned about Mr. Langley's
42 comment about the percentage that Steve White stole, which was 5%, and that margin fell within
43 the range of error in contracts. He was very concerned about that.

44
45 Chairman Kleid stated he found that, after listening to all of the evidence and reading all of the
46 documentation, Mr. Langley allowed a pattern of conduct which did foster the criminal activity.

**REPORT OF THE ADMINISTRATIVE AND PERSONNEL COMMITTEE MEETING
HELD ON WEDNESDAY, SEPTEMBER 29, 2010**

1 He felt the evidence was sufficient to show a course of conduct from which could be drawn the
2 conclusion of poor supervision and particularly insufficient supervision in the field.

3
4 Chairman Kleid commented that there was a thorough investigation. As Committee Member
5 Rosow said, it may have been too slow for his likes as well. But Town Manager Elwell took due
6 time, and brought in forensic accounting, outside counsel, and thoroughly interviewed members
7 of the staff who had any relationship to the projects. He also felt that there was a failure to detect
8 the excessive pricing and an experienced professional should have caught the inflated prices.

9
10 As far as following the town policies were concerned, Chairman Kleid stated that Mr. Langley
11 pointed out in his early appraisal of Steve White that it was insufficient but subsequent appraisals
12 later reported it was "ok". An environment was created that allowed Mr. White to pursue his
13 illegal activities. Chairman Kleid found there was a lack of supervision.

14
15 Chairman Kleid noted that it was quite clear to him that Mr. Langley's credentials as a P.E. were
16 superb. However, removing Mr. Langley from a supervisory position was supported by the facts
17 and was justified. As an aside, judging from what Mr. Langley has learned from this experience,
18 albeit a very difficult learning experience, and hopefully, after some more counseling, he could
19 be allowed to return to a supervisory capacity. He would hope that avenue was not forever
20 blocked with respect to the Town.

21
22 Chairman Kleid stated that he was troubled by the monetary part of the demotion. The
23 punishment should fit the crime. The demotion to a non-supervisory job, although justified, was
24 a major price to pay. He was struck by the fact that the Town created a separate category to fit
25 his back ground.

26
27 Mr. Langley's current salary is \$101, 602., which was an 18% reduction in the pay he made as
28 Assistant Director. The newly created salary spread would allow him to go up to a maximum
29 salary of \$109, 666. Chairman Kleid suggested, without picking the exact amount, that Mr.
30 Langley be given more salary to cause him a lesser financial penalty. He would like to
31 recommend to the full Town Council an adjustment to his salary within the parameters of a
32 senior project engineer position.

33
34 Attorney Sampo summarized the Executive Session by stating that Committee Member Rosow
35 felt there was just cause for the demotion, and supported the pay recommendation as made by the
36 Town Manager Elwell and that Chairman Kleid recommends his demotion as a supervisor but
37 supported an adjustment in pay to be determined by the full Town Council.

38
39
40 **The Town of Palm Beach Administrative and Personnel Committee Findings and**
41 **Recommendations.**

42
43
44 On September 29, 2010, the Town of Palm Beach's Administrative and Personnel Committee
45 (Committee) met and conducted a hearing pursuant to Town of Palm Beach Code of Ordinances,

**REPORT OF THE ADMINISTRATIVE AND PERSONNEL COMMITTEE MEETING
HELD ON WEDNESDAY, SEPTEMBER 29, 2010**

Chapter 82, Article III, for the purpose of resolving the grievance of Charles Langley regarding his demotion

1. On April 14, 2010, former Town Construction Manager Steven White was arrested based on various criminal charges relating to allegations that he had received kickbacks of approximately \$250,000 between January 2008 and March 2010 from contractors performing Town construction projects.
2. At the time of Mr. White's arrest and at all times between January 2008 and March 2010, Charles Langley, the Town's Assistant Director of Public Works, was Mr. White's immediate supervisor. Following Mr. White's arrest, Mr. Langley was placed on administrative leave with pay. Mr. White's employment with the Town was terminated effective May 26, 2010.
3. The Town conducted an administrative investigation with regard to the matters forming the basis for Mr. White's arrest and contracted with Crowe Horwath LLP to undertake a forensic accounting investigation. In addition, the Town's police department investigated the criminal matter. Counsel was retained and witnesses were questioned. The Administrative investigation was supervised and conducted by Town Manager Peter Elwell.
4. Based upon information obtained in these investigations, Town Manager Elwell concluded that Mr. Langley had failed to adequately supervise Mr. White by failing to detect excessive pricing in the bids at issue and failing to correct Mr. White's circumvention of the Town's purchasing procedures. Accordingly, Town Manager Elwell demoted Mr. Langley to a Senior Project Engineer position, which was created for him in the engineering department. Mr. Langley's salary was correspondingly reduced by \$22,572 per year to a salary of \$101,602.
5. Pursuant to Town Personnel Manual Chapter 83, Mr. Langley grieved his demotion and the matter was referred to the Town's Administrative and Personnel Committee which convened a hearing on September 29, 2010 to investigate the grievance.
6. Based on the evidence presented at the hearing, the Committee finds that Mr. Langley was Mr. White's direct supervisor during the time he was alleged to have received kickbacks through collusive bid arrangements with certain contractors. The Committee further finds that as Mr. White's supervisor, Mr. Langley was responsible for adequately supervising Mr. White so that he would not be able to engage in this conduct. However, the Committee concludes that Mr. Langley failed to sufficiently supervise Mr. White and thereby failed to catch and correct the collusive bid arrangements and kickbacks with which Mr. White is charged.
7. The Committee has taken into account and rejects Mr. Langley's contention that the amount of money Mr. White is alleged to have received was small in comparison with the costs of the projects. The Committee finds that the amount of money involved was

**REPORT OF THE ADMINISTRATIVE AND PERSONNEL COMMITTEE MEETING
HELD ON WEDNESDAY, SEPTEMBER 29, 2010**

significant and that Mr. Langley's failure to adequately supervise Mr. White allowed Mr. White to engage in the pattern of conduct at issue.

8. Chapter 1, Sections 1-4 of the *Town of Palm Beach Employee Personnel Manual* provides that Department Directors are expected to supervise their employees effectively. Chapter 6, Section 6—1 provides that demotion may be made when an employee does not perform satisfactory service in the position held. Chapter 6, Section 6-6, provides that cause for demotion includes violations of the provisions of this manual and department policies and procedures.

9. The Committee finds that Town Manager Elwell performed a fair and thorough investigation of the matter involving Mr. Langley and properly determined that Mr. Langley should be demoted. Therefore, the Committee finds there was just cause for Mr. Langley's demotion and recommends as follows:

(a) Mr. Langley's demotion to Senior Project Engineer was appropriate and should stand.

(b) Committee Member Rosow recommends that the pay Mr. Langley was assigned in his new position should stand at \$101,602 per year.

(c) Chairman Kleid recommends that Mr. Langley's pay should be adjusted upward at the discretion of the Town Council within the salary parameters of the position (\$71,562-109,666).

Attorney Sampo asked the Committee if they had any other findings or recommendations.

Committee Member Rosow had no further recommendations.

Chairman Kleid wanted to add that this decision would not preclude Mr. Langley at a later date, assuming he learned from this experience and has further counseling, from applying for a supervisory job.

The Committee added the following finding:

(d) Based on his learning from this experience and hopefully further counseling by staff, Mr. Langley should not be precluded in the future from holding a supervisory position with the Town of Palm Beach.

Both Committee Members indicated assent to the findings and recommendations

VIII. ANY OTHER MATTERS

There were none.

REPORT OF THE ADMINISTRATIVE AND PERSONNEL COMMITTEE MEETING
HELD ON WEDNESDAY, SEPTEMBER 29, 2010

IX. ADJOURNMENT

There being no further business, the Administrative and Personnel Committee Meeting of September 29, 2010, concluded at 1:08 p.m.

APPROVED:



Richard M. Kleid
Chairman

Towns Documents
Langley Documents