

TOWN OF PALM BEACH

Office of The Town Clerk

REPORT OF THE TOWN OF PALM BEACH PUBLIC EMPLOYEES RELATIONS COMMISSION THURSDAY, JANUARY 24, 2008

I. CALL TO ORDER - Chair, Helen Hoffman

The meeting was called to order by Chair, Helen Hoffman at 2:15 p.m. on Thursday, January 24, 2008, in the Town Hall Council Chambers. All of the Commission Members were present Chair, Helen Hoffman, Members Alec Flamm and Peter Graves. Also present: Attorney Jeffrey Pheterson, on behalf of the Commission; Attorney David Kornreich, on behalf of the Town of Palm Beach; Attorney Lawrence Fagan, on behalf of the Palm Beach County Police Benevolent Association; General Counsel's Chief of Staff George F. Hachigian, on behalf of the Florida State Lodge Fraternal Order of Police; William C. Crouse, Human Resources Director for the Town of Palm Beach; and Susan A. Eichhorn, Town Clerk for the Town of Palm Beach.

II. REGISTRATION OF PALM BEACH COUNTY POLICE BENEVOLENT ASSOCIATION (PBA).

Hoffman: The first item on the Agenda was the registration of the Palm Beach County Police Benevolent Association (PBA). Mr. Pheterson, as our Counsel, would you advise us?

Pheterson: Yes. The Palm Beach County Police Benevolent Association did provide the Town Commission with all of the necessary registration information under both the local Town Ordinance and under the State Statute. They have identical requirements, from the State and the local Ordinance, and we have been provided with all that information. So, it would be appropriate to issue an Order identifying the PBA as being properly registered with the Town of Palm Beach PERC.

Hoffman: Would you like a vote of the Board, the three of us? All those in favor.

1-24-08 PERC

**REPORT OF TOWN OF PALM BEACH PUBLIC EMPLOYEES RELATIONS COMMISSION
HELD ON THURSDAY, JANUARY 24, 2008**

1 Commission: Aye

2
3 Hoffman: Unanimously accepted.

4
5
6
7 **III. REGISTRATION OF FLORIDA STATE LODGE, FRATERNAL ORDER OF POLICE**
8 **(FOP).**

9
10
11 Hoffman: The next would be the registration of the Florida State Lodge, Fraternal Order of
12 Police (FOP).

13
14 Pheterson: The FOP, as well, provided copies of everything that had been filed with the State
15 PERC. So, we do have on file as to both of these organizations; the purpose for this
16 is so that if any interested member of the public, but particularly a police officer or
17 someone that is involved in this Petition wants to find out more about the Union,
18 they can come and take a look at these public records. The FOP is also in a position
19 at this time as a registered employee organization.

20
21 Hoffman: I'll make the motion that we accept their registration certification. All in favor.

22
23 Commission: Aye

24
25 Hoffman: Unanimously accepted.

26
27
28
29 **IV. REPRESENTATION-CERTIFICATION PETITIONS OF PBA AND FOP.**

30
31 **A. Bargaining Unit Inclusions and Exclusions**

32
33 **B. Future Procedures**

34
35
36 Pheterson: We have two Representation Certification Petitions filed: one by the PBA and one
37 by the FOP. They both have requested Bargaining Units that vary slightly by the
38 unit descriptions within the Police Department of the Town of Palm Beach. Both of
39 the Petitions were accompanied with cards that were signed and dated, authorization

**REPORT OF TOWN OF PALM BEACH PUBLIC EMPLOYEES RELATIONS COMMISSION
HELD ON THURSDAY, JANUARY 24, 2008**

1 cards, authorizing each of these two unions to represent these employees for
2 purposes of collective bargaining.

3
4 Prior to the Hearing today, the Clerk and I went through those cards and performed
5 a card check against a roster of sworn personnel of the Police Department. Those
6 documents are one of the few documents that would be in the possession of the Town
7 of Palm Beach that are not public record. They are exempt from the Public Records
8 Act. After that card check, both of the unions, in fact, had more than 30% of a
9 showing of interest for people in these prospective units. No matter how you divide
10 up the units, there would be a sufficient joining of interest, that is the single unit.

11
12 Hoffman: Are we going to have a hearing of what would be the appropriate unit of bargaining?

13
14 Pheterson: The process would be, at this point, because there are some differences between the
15 positions taken by the parties; prior to the commencement of the Hearing, I did
16 discuss this with Counsel for all, that we have represented here today, legal Counsel
17 for all, for both employer organizations and the Town. Perhaps, it would be better
18 to turn it over to them to make some sort of a statement as to where you believe you
19 would be in terms of agreement on the Bargaining Units.

20
21 Kornreich: Good afternoon, I'm David Kornreich of the Law Firm Fisher & Phillips, of Orlando
22 and Ft. Lauderdale, and I will be representing the Town in this matter. We have met,
23 off the record, and there is a good chance, at this point, Madam Chairman, that we
24 will enter into a Consent Election Agreement and there will be no need for a hearing.

25
26 We have some precedent, as you may recall, with the Firefighters' union, where we
27 had a Rank and File Unit and a Supervisory Unit, two separate units. For those of
28 you that are not completely aware, in the public sector, unlike the private sector, you
29 have eligibility of supervisors for unionization. It is sort of a deviation from the
30 private sector. So, you get into this situation with separate units. So, we have that
31 in the Town with the firefighters. At this point, the lieutenants are in a separate
32 Bargaining Unit to the Rank and File. And in discussing this with my colleagues
33 from the FOP and the PBA, we think that might be a good format, a workable
34 format, and I think we are 90% of the way to stipulating to an Election Agreement.
35 And there are details as to when the election will be held, and so on and so forth.
36 But, those are simple details as compared to defining the unit. So, I am very
37 optimistic and they can chime in if they want to. I am fairly optimistic that we are
38 going to work it out, and there will be no need for a hearing. You, of course, are the
39 appellate body, if there was a hearing. So, I am a little bit concerned about getting

**REPORT OF TOWN OF PALM BEACH PUBLIC EMPLOYEES RELATIONS COMMISSION
HELD ON THURSDAY, JANUARY 24, 2008**

1 to deep into it, at this point; but optimistically, it is not going to happen, and we will
2 work it out amongst ourselves.

3
4 Hoffman: Do you have a time frame? Have the parties agreed to a time frame to work this out?

5
6 Kornreich: Well, no. What we are going to try to do, what this involves is really, we have to
7 prepare a stipulation as to the various job classifications: the PERC type procedure,
8 which is different than the National Labor Relations Board (NLRB) procedure,
9 whereas you know the NLRB is a simpler procedure. The parties just agree, and it
10 is pretty much done. With the PERC procedure you have to file stipulations,
11 outlining all the job classifications, their duties, and whether they qualify as
12 managerial, confidential or supervisory. NLRB takes your word, and in PERC, it
13 does not work that way.

14
15 So, we will put together a stipulation amongst ourselves, and will try to do it very
16 expeditiously within the next week or so, and then from there we will enter into our
17 Consent Election Agreement, present it to the General Counsel. And I think there
18 will have to be a determination whether that will involve your approval. I think it
19 does, and I think it will, and I think it will have to come before you for approval.
20 And then you have the mechanics whether you have to convene another meeting or
21 not. But, we will make that document self-contained, so when it is approved, there
22 would be an election date, all the mechanics will be done, and it will make
23 everybody's life a lot simpler. It is different because, again, you hold these
24 proceedings in the Sunshine, and you are required to do so. So, again, something
25 that might be very routine, you will have to meet on it more than likely, unless you
26 can do it telephonically, Mr. General Counsel.

27
28 Pheterson: In checking on the mechanics of this, if the Commission meets, under Town rules for
29 its Boards, at least a quorum needs to be physically present here, and only the
30 members that are actually present can vote, which does not mean if someone was out
31 of the area – you two are local residents – and Mr. Graves is from the other side of
32 Lake Okeechobee, so, it is more of a drive, it could be tied in by telephone to
33 deliberate in the discussions, if there was any. But, I have a sense that based on the
34 direction it seems to be going, it would be an unanimous vote, if everyone was in
35 agreement.

36
37 Hoffman: Well, that is what we will do. So, there is not a question.

38
39 Kornreich: At this point, the parties have tentatively agreed. There is one position, perhaps at

**REPORT OF TOWN OF PALM BEACH PUBLIC EMPLOYEES RELATIONS COMMISSION
HELD ON THURSDAY, JANUARY 24, 2008**

1 issue, that I need to check on and advise my colleagues, as to what our position is as
2 to that one position, but one out of whatever you know, 60-70 eligible voters should
3 not be a problem. Appreciate it. Thank you.
4

5 Flamm: Jeff, the 30% you referred to before, is that true regardless of the scope of the
6 representation?
7

8 Pheterson: That is an interesting question. Let me rephrase in the way I, it came into my mind,
9 and I do not know the answer to this is if instead of one, if you look at it as single
10 unit, the 30% of the cards are there regardless of whether you agreed with the
11 position taken by the PBA or the FOP or the Town as to the Rank and File Unit. The
12 question as to the sergeants, as a stand alone separate unit, I do not know the answer
13 off the top. I do not know the answer.
14

15 Flamm: Assuming that it is not a separate unit, but integral, is the 30% as we are looking at
16 it today, account for the total?
17

18 Pheterson: It would be 30% of the total off of the list that we were using. I do not have it in
19 front of me, but the total number of people in the ranks of police officer and sergeant,
20 and if you combine that total number of employees, there were more than 30% of
21 cards for both of the two unions.
22

23 Hoffman: I think what you are asking is, if the sergeants become their own unit, are there
24 enough rank and file to meet the 30%?
25

26 Kornreich: Let me stipulate. I am going to make it easier for everybody. We are going to
27 stipulate. The Town is not contesting the showing of interest. The Town will
28 stipulate that there is adequate showing of interest for both unions, for both units,
29 excuse me, unions and units. We are saying, hey, everybody's qualified, so we are
30 not going to contest that. Indeed, there are occasions, your question is an excellent
31 one, because there are occasions, we do exercise our right to contest that. But in this
32 case, if we have agreement here, we are not going to be an impediment. We stipulate
33 that both units qualify for an election under the 30% rule and both unions qualify.
34 Because, I know, I would assume there are overlapping. When you have two unions,
35 you have overlapping cards, where people sign cards for both unions. And, the
36 conventional wisdom might be you should not count those cards; but the law, I think,
37 is the contrary. The law is you count cards. You can sign up for two unions, and it
38 counts against the 30%. So, that's it. So, hopefully, that makes it a lot easier.
39

**REPORT OF TOWN OF PALM BEACH PUBLIC EMPLOYEES RELATIONS COMMISSION
HELD ON THURSDAY, JANUARY 24, 2008**

1 Hoffman: Do you have any questions, Mr. Graves?
2
3 Graves: No. It seems pretty straight forward.
4
5 Hoffman: Well, I think we accept your - inaudible - We will meet again, and you will be on
6 the phone, and we will finish the certification in the Sunshine, because I know you
7 are going to have, when you have negotiated all of this, you will also give us a time
8 and place for the election. So, it can be so ordered.
9
10 Kornreich: We will do all the details together. You will get all the details.
11
12 Flamm?: Do you have a guestimate on how long your negotiation will take?
13
14 Kornreich: My thought is to have the document, because there is, we have to put some case
15 citations and so on. I have it ready, and I think within 10 days, at max, we can have
16 a document to your general counsel, and we can go from there. Is that okay with you
17 guys?
18
19 Pheterson: It is, it is fine.
20
21 Kornreich: I think so. I'll prepare it, and I'll share it, and there might be some changes, but I
22 think 10 days would be the outer limits. We will move it along.
23
24 Pheterson: And, we will talk in the meantime as well, in terms of, I think we need to, because
25 of the - How much time do we need to notice a public hearing?
26
27 Eichhorn: Reasonable time. Usually, it is about 48 hours, at least.
28
29 Pheterson: Okay, that will not add too much time to the process then. So, just to give you an
30 idea of how far to set out the election. If you figure, we have a week to get everyone
31 together again to confirm the Consent Election Agreement. If that was the direction.
32
33 Kornreich: My thought is that we have the election in about 30 days using the NRLB standards
34 from approval or whatever. So, I think everybody can live with that. Thank you.
35
36
37 Hoffman: Are there any other matters before we adjourn.
38
39 Pheterson: No, Madam Chairman.

REPORT OF TOWN OF PALM BEACH PUBLIC EMPLOYEES RELATIONS COMMISSION HELD ON THURSDAY, JANUARY 24, 2008
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1 Hoffman: Do I hear a motion to adjourn.

2
3 Flamm: Move it.

4
5 Hoffman: Alright, we will talk to you on the telephone.

6
7 Graves: Unless I, I may possibly be in Town. I do not know.

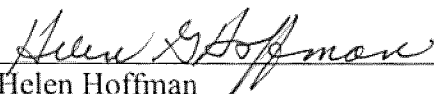
8
9
10 V. ANY OTHER MATTERS

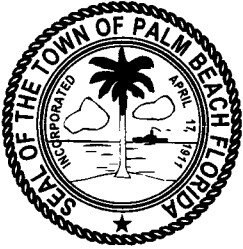
11
12 There were none.

13
14
15 VI. ADJOURNMENT

16
17 There being no further business, the Public Employees Relations Commission meeting of
18 January 24, 2008, was adjourned at 2:45 p.m.

19
20
21 APPROVED:

22
23
24 
25 Helen Hoffman
26 Chair
27



TOWN OF PALM BEACH

Office of The Town Clerk

MINUTES OF TOWN OF PALM BEACH PUBLIC EMPLOYEES RELATIONS COMMISSION FRIDAY, FEBRUARY 15, 2008

2008-02-13

I. CALL TO ORDER - Chair, Helen Hoffman

The meeting was called to order by Chair Helen Hoffman at 9:30 a.m., on Friday, February 15, 2008, in the Town Hall Council Chambers. The Commission Members present were: Chair Helen Hoffman and Member Alex Flamm. Commission Member Peter Graves was not present. Also present: Attorney Jeffrey Pheterson, on behalf of the Commission; William C. Crouse, Human Resources Director for the Town of Palm Beach; and Susan A. Eichhorn, Town Clerk for the Town of Palm Beach.

II. APPROVAL OF THE REPORT OF THE PUBLIC EMPLOYEES RELATIONS COMMISSION - MEETING HELD ON THURSDAY, JANUARY 24, 2008.

Hoffman: The first item on the Agenda was the approval of the Minutes of the meeting held on January 24, 2008. We have been given copies and it appears to be a verbatim.

Pheterson: For your information, this meeting is being broadcast over a webstream, audio over the internet. There is no video, but there is audio over the internet, and what people will see if they are on the internet listening is the Agenda. The portion of the Agenda that we are on will be highlighted, as you go through the Agenda, by Sue Eichhorn, Town Clerk. The counsel for the parties may be listening from this point on in their offices, on the internet.

Flamm: How will they communicate to us?

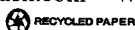
Pheterson: They have communicated in writing, with us.

Flamm: In other words, they are done communicating on this issue?

Pheterson: Yes, we can explain that when we get a little further. We do not anticipate that the other attorneys will be here. I spoke with Peter Graves, the other Commissioner, yesterday. He is on an airplane, at this point, so he is unable to attend.

2-15-08 PERC

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**MINUTES OF THE TOWN OF PALM BEACH PUBLIC EMPLOYEES RELATIONS COMMISSION
HELD ON FEBRUARY 15, 2008**

1
2 Hoffman: We are two out of three, so we still have a quorum out of the three of us. I should
3 call attendance, when I call the meeting to order. The minutes will note that Peter
4 Graves is out of town, but the Chair Helen Hoffman is here, and Alec Flamm. I
5 asked for a motion to approve the Minutes.

6
7 Flamm: So moved.

8
9 Hoffman: The Minutes are accepted as submitted.

10
11
12 III. CONSIDERATION OF:
13 JOINT STIPULATION IN SUPPORT OF CONSENT ELECTION AGREEMENTS
14 [Petitioners: Florida State Lodge Fraternal Order of Police, Inc. - Case No. RC-2007-002 and
15 Palm Beach County Police Benevolent Association, Inc. - Case No. RC-2007-001.
16 Respondent: Town of Palm Beach].
17

18
19 IV. CONSIDERATION OF:

20
21 A. CONSENT ELECTION AGREEMENT - SUPERVISORY UNIT (UNIT A)
22 [Petitioners: Florida State Lodge Fraternal Order of Police, Inc. - Case No. RC-2007-
23 002, and Palm Beach County Police Benevolent Association, Inc. - Case No. RC-
24 2007-001.
25 Respondent: Town of Palm Beach].
26

27 B. CONSENT ELECTION AGREEMENT - NON-SUPERVISORY UNIT (UNIT B)
28 [Petitioners: Florida State Lodge Fraternal Order of Police, Inc. - Case No. RC-2007-
29 002, and Palm Beach County Police Benevolent Association, Inc. - Case No. RC-
30 2007-001.
31 Respondent: Town of Palm Beach].
32

33
34 Hoffman: Counsel, I have read this consideration of the Joint Stipulation of the Consent
35 Election, and it appears to be in order. I would like your official opinion.

36
37 Pheterson: On February 1, 2008, the Town of Palm Beach filed, with the Commission, two
38 Consent Election Agreements for two separate proposed collective bargaining units.
39 Unit A is a supervisory unit, and Unit B is a non-supervisory unit. The Consent
40 Election Agreement forms are in the standard form used by the Public Employees

MINUTES OF THE TOWN OF PALM BEACH PUBLIC EMPLOYEES RELATIONS COMMISSION
HELD ON FEBRUARY 15, 2008

1 Relations Commission (PERC). The forms are proper and appropriate. They are
2 signed by representatives of the Town of Palm Beach, Florida State Lodge Fraternal
3 Order of Police, and the Palm Beach County Police Benevolent Association. All
4 parties involved in the case, at this point, are in agreement. The supervisory unit,
5 Unit A, is proposed to include all full-time sworn law enforcement personnel
6 employed by the Town of Palm Beach in the classification of Sergeant; and
7 excluding all other employees of the Town of Palm Beach, including the Chief of
8 Police, employees in the classifications of Major, Captain, and Police Officer, and
9 one Sergeant, Sergeant for Professional Standards Unit, which is like the Internal
10 Affairs Sergeant, and all non-law enforcement personnel.

11
12 Flamm: Would that be comprised of 14 persons?

13
14 Pheterson: Approximately, I believe. The non-supervisory unit, Unit B, is proposed to be all
15 sworn law enforcement personnel employed by the Town in the classification of
16 Police Officer and would have the same exclusions. It would exclude the Chief of
17 Police, Major, Captain, Sergeant, the Professional Standards Unit Sergeant, and all
18 non-sworn personnel. In support of the Consent Election Agreement, in accordance
19 with the Commission's rules, the parties have provided a Joint Stipulation in which
20 they identify the reasons for the exclusions of these various classifications.
21 Regarding the Chief of Police, Major, and Captain, they have outlined the duties and
22 responsibilities of the personnel in those positions and have analyzed the duties in
23 light of the statutory definition of a management employee, being involved in
24 administration of any collective bargaining agreement, being involved in
25 administration of the Police Department, and being involved in personnel relations
26 for all subordinate personnel. There is also a description of the duties and
27 responsibilities of the Professional Standards Sergeant describing his or her work,
28 written internal affairs investigation reports, and investigations of all firearms
29 discharge and the like. It is agreed by all the parties that the position, as well, should
30 be excluded based upon that conflict of interest. In addition, there are supporting
31 documents, as required, that would provide a sufficient basis for the Commission if
32 it agreed with the positions taken by the parties, to approve these two bargaining
33 units. As you were provided with this a little earlier in the week, are there any
34 questions about any of the materials?

35
36 Hoffman: May I hear a motion to accept it?

37
38 Flamm: I would move so.
39
40

MINUTES OF THE TOWN OF PALM BEACH PUBLIC EMPLOYEES RELATIONS COMMISSION
HELD ON FEBRUARY 15, 2008

- 1 Pheterson: This is actually the same thing, but for the record, Madam Chairman, you also agree
2 with the motion that was made?
3
- 4 Hoffman: Yes.
5
- 6 Pheterson: We have unanimous approval, at this point, of the Consent Election Agreements for
7 the supervisory unit, Unit A, and the non-supervisory unit, Unit B. I have drafts of
8 orders, if you want to take a look at what I have prepared, to basically go through the
9 chronology of events. First, as we did at the last meeting, approve the registration of
10 the two employee organizations, with the Commission, and then describe the
11 proposed units, the supervisory Unit A, and non-supervisory Unit B, and indicate that
12 the matter came before the Commission today, based on the materials in the Joint
13 Stipulation, and in light of the stipulation, the statements of the parties, applicable
14 State PERC law, and otherwise being advised of the premise that the Commission
15 approves the parties agreements, and directs that the process move forward. Since the
16 last hearing, the parties had been in touch with the State Public Employee Relations
17 Commissions, spoke with their General Counsel, and they have again graciously
18 agreed to permit us to use their election staff to run the election. This order
19 delegates responsibility to the State PERC Election Staff, to conduct the election. It
20 may be appropriate to have a formal motion on the record, that would delegate the
21 Commission's responsibilities for conducting the election to the elections agent from
22 State PERC, who will essentially be our agent for that purpose.
23
- 24 Hoffman: At this point, we ought to make the motion, as you have stated it, that we delegate the
25 State PERC official to conduct the election for our Town employees.
26
- 27 Flamm: Can I back up for just a moment, what we have here does not show that the three
28 parties have not all signed on to this. You have something that shows that?
29
- 30 Pheterson: First, we have the Agreement itself, but it is stated in the paragraph that begins at the
31 bottom of page 2: Subsequent to the adjournment of that hearing, the parties jointly
32 have submitted two Consent Election Agreements with the Commission along with
33 a Joint Stipulation in Support of Consent Election Agreements. After consultation
34 between the parties, they jointly propose that the following supervisory (Unit A) and
35 non-supervisory (Unit B) bargaining units are appropriate.
36
- 37 Flamm: This has been agreed to by the three parties?
38
- 39 Pheterson: Correct.
40

MINUTES OF THE TOWN OF PALM BEACH PUBLIC EMPLOYEES RELATIONS COMMISSION
HELD ON FEBRUARY 15, 2008

- 1 Hoffman: We accepted it when we made our motion.
2
3 Pheterson: Is there a motion to approve the State PERC Elections Agent?
4
5 Flamm: I will move so.
6
7 Hoffman: Seconded. I move unanimously.
8
9 Pheterson: With that passed, if you would like to take some time and read through this order,
10 you could. The order does note that and since it is now that you have just been
11 handed this, I can also advise you that Commissioner Graves is in agreement, he
12 concurs in this result.
13
14 Hoffman: Have the minutes show that.
15
16 Pheterson: Unless there are other questions, that would conclude the business of the
17 Commission today.
18
19 C. FUTURE PROCEDURES
20
21 Flamm: How and when would a date be established for the election?
22
23 Pheterson: Perhaps Mr. Crouse might advise on it. I believe the parties have agreed on a date
24 at this point. I am not sure what that is. The parties have already been in touch with
25 the PERC elections agent, assuming that the Commission would most likely approve
26 the Consent Election Agreements today.
27
28 Crouse: Yes they have, and the dates are March 10th and 11th to be held at the Police
29 Department, at different intervals, so each of the shifts will be provided an
30 opportunity to vote.
31
32 Hoffman: Is that recorded in our minutes?
33
34 Pheterson: It would be, but it does not need to. If something were to come up, the date could
35 change. Once we delegate it to the elections staff they'll....
36
37 Flamm: Just informational.
38
39 Hoffman: That can be at the current time. March 10th and 11th have been selected for the
40 election to be held.

**MINUTES OF THE TOWN OF PALM BEACH PUBLIC EMPLOYEES RELATIONS COMMISSION
HELD ON FEBRUARY 15, 2008**

1
2 V. ANY OTHER MATTERS
3

4 There were none.
5

6
7 VI. ADJOURNMENT
8

9 There being no further business to discuss, the Town of Palm Beach Public Employees
10 Relations Commission of February 15, 2008, was adjourned at 9:48 a.m.
11

12
13 APPROVED:
14

15
16
17
18 _____
19 Helen Hoffman
Chair