

# TOWN OF PALM BEACH

Office of The Town Clerk

## REPORT OF THE SHORE PROTECTION BOARD MEETING HELD ON FRIDAY, DECEMBER 4, 2009

### I. CALL TO ORDER

The meeting of the Shore Protection Board was called to order at 9:03 a.m., on Friday, December 04, 2009 in the Emergency Operations Center, 355 S. County Road, Palm Beach.

### II. ROLL CALL

On roll call, all Members were found to be in attendance, except for Member Katz, who arrived at 9:11 a.m.

### III. PLEDGE OF ALLEGIANCE

Chair Ecclestone led the Pledge of Allegiance.

### IV. APPROVAL OF AGENDA

Vice Chair Frank asked to have an update on the U.S. Supreme Court Case regarding ownership of beaches. It would be discussed under informational items.

**Motion to approve the Agenda as Amended was made by Member Goldstein, seconded by Vice Chair Frank. On voice vote, the motion carried unanimously.**

### V. APPROVAL OF THE MINUTES OF THE OCTOBER 7 AND OCTOBER 22, 2009 MEETINGS

**Motion to approve the Minutes of the October 7, 2009 Meeting made by Vice Chair Frank, seconded by Member Goldstein. On voice vote, the motion carried unanimously.**

**Motion to approve the Minutes of the October 22, 2009 Meeting made by Vice Chair Frank, seconded by Member Goldstein. On voice vote, the motion carried unanimously.**

### VI. COMMUNICATIONS FROM SHORE PROTECTION BOARD MEMBERS

1 Member Raffo asked to postpone the Board Member Comments until after hearing from Public  
2 Works Director Paul Brazil and Coastal Coordinator Rob Weber. Chair Ecclestone informed Mr.  
3 Raffo they have been doing it this way for a year and the Agenda had been approved.

4  
5 Vice Chair Frank stated that the monthly coastal update that Coastal Coordinator Rob Weber  
6 provided was great. The content would be discussed later on in the agenda.

7  
8 Member Hicks announced that he was applying for re-appointment to the Shore Protection  
9 Board, and thanked the board and the Town Council for the opportunity to serve, in the event he  
10 would not be re-appointed. Chair Ecclestone thanked Member Hicks for his thoughts and his  
11 input in the past year.

12  
13 VII. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

14 Larry Goldberg, 3360 S. Ocean Blvd., suggested a government liaison officer for the Shore  
15 Protection Board. He felt it would be a critical position. He hoped that there would also be  
16 intergovernmental coordination activity related to shoreline protection, and influence the Florida  
17 Shore and Beach Preservation Association (FSBPA) to promote legislation that would help  
18 implement shore protection projects. They will be hosting a conference in February in  
19 Melbourne and hoped that members of the Shore Board would attend. He urged continued  
20 monitoring of shoreline projects and provide monthly updates rather than meeting quarterly. He  
21 added that the erosion in the past three days in Reach 8 has been significant and hoped that they  
22 would be included in the pending permit.

23  
24 Chair Ecclestone stated that he agreed with everything that Mr. Goldberg stated. Member  
25 Goldstein asked Chair Ecclestone if the lobbying was part of Coastal Coordinator Rob Weber's  
26 job.

27  
28 Town Manager Elwell addressed the intergovernmental issue and stated it was a shared  
29 responsibility. He announced that there was no funding assigned at this time to hire a consultant  
30 for this matter. Communications for coastal issues with lobbying organizations (such as FSBPA),  
31 FDEP, legislative officials, and environmental groups, is being handled as a team effort with  
32 several Town staff members. Coastal Coordinator Rob Weber should not be individually  
33 investing time in lobbying efforts at this time.

34  
35 Mr. Goldberg suggested having a person write legislation and Mr. Ecclestone disagreed.

36  
37 *Chair Ecclestone announced that Member Katz had arrived.*

38  
39 Roberta Kahan, President of Ambassador II at 2780 S. Ocean Blvd., spoke on behalf of the  
40 residents and submitted a written copy of her comments into the record:

41  
42 The property I represent, located at 2780 South Ocean Blvd. is  
43 positioned toward the northern end of Reach 8. It is one of seven  
44 properties that have been excluded from the dune restoration project

approved by the Town Council at their April 2009 meeting.

Paul Brazil, Director of Public Works, has told me that it was his recommendation that these properties be excluded, as we are not included in the permit, thus making our portion of the restoration ineligible for funding other than from town coffers. I strenuously object to this arbitrary, cost-driven decision. All properties along our shore deserve equal treatment and to exclude a small handful is most unfair.

Approximately two years ago, Ambassador II and our neighbors were included in a dune restoration project. The beach restoration, at that time, did not include our property or that south of us to the Lake Worth Pier. A week-long period of sustained, high easterly winds washed away probably one-third of our newly placed dune. Subsequently, we were very fortunate to be the recipient of littoral drift of sand from the restored beaches north of us. It was this beach that Mr. Brazil observed when making his recommendation to exclude us from the current dune restoration project. Winds have since washed much of our beach out to sea and recent heavy weather has brought waves lapping at our already eroded dune, leaving us vulnerable. A serious storm could easily overrun our beach and eroded dune causing significant damage to our property. The properties of our entire shoreline should be protected as equally as possible.

I have repeatedly requested that this Board and the Town Council reconsider your position and include these properties in Reach 8 north of the Lake Worth Pier in the anticipated dune restoration project. I again appeal to this Board and Town Council for your support. Thank you.

Public Works Director Paul Brazil advised that the basis for that decision was the condition of the beach at the time the permit was applied for. He stated that the section of beach was in much better conditions than other areas. Town Manager Elwell added that an additional factor now that was not true then, but to modify the permit application now, it would delay the process tremendously.

Member Katz asked Public Works Director Brazil about using the concept of a feeder beach to put extra sand on Reach 7 in hopes that some of the sand would migrate south to the top of Reach 8. Public Works Director Brazil responded that any work that would be completed in Reach 7 would also benefit the outside areas. In addition, the sand placed for the dunes would be placed in the water, and some of that sand will also migrate south.

Richard Theise, Reef Condo President, commented on the recently approved Shore Protection Board Plan and was concerned with the dune projects listed. He stated there was reference to dune projects in terms of application, and yet at the end, it then referred to both beaches and dunes. His second concern was regarding conversations with the U.S. Army Corps of Engineers

1 where they recognized that the permit for Reach 7 on dune restoration was already in place. He  
2 was under the impression that the Town was trying to go back under the dune in order to fix the  
3 hot spots which have developed at Phipps Ocean Park and south of there. He asked what the  
4 process would be to repair those hotspots. His third question was what was going to be done  
5 regarding hot spots since nothing is planned until after another hurricane season.

6  
7 Public Works Director Brazil responded that there are three different projects underway. The  
8 first project is a repair project for the dunes and is hoped to be completed before next turtle  
9 season. It included Reach 4 (Mid-Town Beach), Reach 7 and part of Reach 8. There would be  
10 possible 75% FEMA reimbursement on the repair part for the areas where there was a previous  
11 permit. The town is working within the permitted template where it has placed sand previously.  
12 The Town is asking for a section of Reach 8 to be included, as a modification, to the Reach 7  
13 permit.

14  
15 Separate from that project, there would need to be re-nourishment at Mid-Town Beach. The  
16 Town is currently studying how to possibly treat a hot-spot in Reach 7 and analyzing if it could  
17 be a structure or other alternatives. That would lead to permitting a new beach nourishment  
18 project in Reach 7.

19  
20 Public Works Director Brazil continued that separate from the previous two items, there is a  
21 consultant researching the Reach 8 denied permit to modify it in a way in order for it to be  
22 approved. On the south end of Reach 8, the Town is working with the County on a project to  
23 address the hard bottom issues. The County is managing that project and is considering off-shore  
24 breakwaters, similar to the Singer Island project. The study effort has begun, (Environmental  
25 Impact Study or EIS) and will take approximately eighteen months.

26  
27 Mr. Theise asked if the Reach 7 project could be a standalone project. Public Works Director  
28 Brazil responded that it could and they would reach that fork in the road probably sometime the  
29 following week. The Town is expecting a request for additional information from DEP  
30 regarding the permit submittal. If it is onerous, and if the questions based on Reach 8 make it  
31 impossible for the Town to build Reach 7, a decision would have to be made at that time.

32  
33 Gerald Heller, President of 2770 S. Ocean Blvd., stated he agreed with Ms. Kahan's comments.  
34 He added that his building is located between the Ambassador II and the Ambassador. Last  
35 summer, there was good beach, but now the water is pressing up against the dunes and a lot of  
36 the shoreline is gone. He would like that area to be included in the pending permit. He submitted  
37 photographs into the record of the shoreline where he lives.

38  
39 Robert Roddy, 231 Kenlyn Road, stated he has lived in Palm Beach all his life. The metal groins  
40 do not work that were installed several years ago, and are a hazard. Later on, boulders were  
41 placed against the roadway to prevent the road from being washed away. He said the Town  
42 needs to move forward and he suggested artificial reefs and breakwaters as a solution. Regarding  
43 surfers, there really is no compromise. They enjoy the waves that are destroying the beach.

Chair Ecclestone responded that part of the problem was that the groins were not maintained after they were installed approximately forty years ago. He informed Mr. Roddy that there are eighty-nine groins in Town between Reaches 1 and 6, with none in reaches 7 and 8. A report will be presented at next month's Shore Protection Board Meeting. He noted the problem is with obtaining the permitting. More dialogue occurred between the Shore Protection Board Members and Mr. Roddy. He was encouraged to attend more meetings in order to understand the frustrations and permitting difficulties the Board encounters.

Vice Chair Frank stated that the Board is aware of the breakwaters and stated that everyone on the Board would agree with Mr. Roddy. He added that the main issue was obtaining the permitting.

Member Hicks stated as an example the Singer Island project has been trying to obtain a breakwater project for over five years. This would provide an example of what has been done, and what may be needed to be done. The County is doing that project and not the Town of Palm Beach.

Member Katz welcomed the new audience members and said often times there are not many in attendance. He read a sentence from an article from the *Palm Beach Post* that stated Riviera Beach approved five year capital projects. It was for \$87 million dollars. They allocated \$7 million dollars to the Singer Island breakwater project. He brought that to the audience and Board's attention because it was very important to find out that when the Town does something on one side of the ocean, everyone gets safety. The second thing, he found out and would like Public Works Director Brazil to verify, that out of the \$28 million dollars cost for the project, 25% is to be funded by Riviera Beach, 25% is funded by Palm Beach County, and the balance by the State of Florida. The citizens of Singer Island will pay nothing. In a time when they are trying to find out how to fund everything that the Shore Board proposed in the long range plan, they should look at how our neighbors are funding projects. Perhaps the Town could adopt the funding strategies.

Chair Ecclestone informed Member Katz that Singer Island is in Riviera Beach. Public Works Director Brazil added that new approved beach nourishment projects that qualify do get 50% participation from the State on the first round.

Informational Items:

#### VIII. SHORELINE CONDITION ASSESSMENT [Robert Weber, Coastal Coordinator]

Coastal Coordinator Weber announced that he went to the various beach locations on the 13th and 16th of last month and has been there several times since. He was aware of the dynamic of the recent storms and the damage they have been doing. He stated he began photographing numerous locations last year to document the conditions of the shoreline. He now has one full year's worth of data. That information was supplied in the back-up materials. He distributed recent photographs to the Board Members and a copy was submitted into the record.

Member Lindsay Buck encouraged each Board Member to meet with Coastal Coordinator Weber and go along with him on his photography sessions. It was very useful and informative. She said that waves that hit the shoreline each November is cyclical. It is important to understand the seasons, and the littoral drift on the shoreline.

Mr. Theise added that in Reach 7, his condo maintains the dunes and addressed the photos Mr. Weber presented. Even with the protection of dunes, there used to be a 60 ft depth. It is now 30 feet. Chair Ecclestone added that he also waters his dune vegetation. Public Works Director Brazil noted that a permit is required to water the dunes and fairly easy to get.

#### IX. COASTAL PROJECT UPDATES [Robert Weber, Coastal Coordinator]

##### Discussion Items:

Coastal Coordinator Weber provided a newsletter to the Board Members and distributed a chart to the board, which provided the Coastal Project Update. Copies were submitted into the record. Vice Chair Frank noted that he liked the newsletter and asked that it be distributed early. Other members also liked it and discussed what topics they would like to see in the newsletter and the format of the coastal projects.

Several of the following Board Members' questions and comments were responded to by Public Works Director Brazil and Town Manager Elwell:

- Progress reports from the consultants were a good idea, however, at some point it was not helpful, for example, if Taylor Engineering, Inc., was half way through their modeling, there would not be anything to share until completion.
- Additional funding that was needed by the consultants would come to the Board for the next Town Council Meeting.
- In order not to drop any of the eight objectives, all of the Shore Protections Board's priorities and objectives should be listed on the table.
- Public Works Director Brazil provided an explanation regarding the coordination of the consultants.
- The tri-party dredging had been stagnant for the last six months, as the Port of Palm Beach and Palm Beach County had not yet appropriated any funds, of which each was required to pay a third; the Port was trying to find a less expensive approach to do the permitting work.

- The first step was to hire a contractor to handle the permitting work and determine what was allowed by the local parties, \$150,000 was needed from each of the three parties, at a total cost of \$450,000.

Discussion occurred among the Board Members regarding the funding of the tri-party dredging agreement. Following were several of the comments discussed:

- If the Port of Palm Beach did not have any money, that perhaps the Town and Palm Beach County could fund the dredging.
- Mr. Elwell indicated that the funding issue could be placed as an agenda item in the January Town Council Meeting.
- The sand was placed near shore on the last dredge, and in January and March it would be done again.
- It would cost \$300,000 or more in order to get the sand from the water placed directly on the beach, with the Sand Transfer Plant in operation.

Town Manager Elwell made several of the following comments:

- The Sand Transfer Plant and the supplemental piece, which required permitting of local parties to do what only the federal government was currently allowed to do.
- The Town should anticipate that it would take awhile in the permitting process and then in the implementation stage.
- Simultaneously, the Town had the effort going in order to get the laws changed regarding the expansion of the settling basin and the direction of the United States Army Corps of Engineers (USACE) to coordinate with the local parties in order to get sand on the beach instead of in the water.
- Getting the local parties in as supplemental to the USACE's or to replace the USACE would be a much longer term effort.

Discussion occurred among the Shore Protection Board members, Mr. Elwell, and Mr. Brazil, regarding the Reach 8 beach permit. Several of the following comments were discussed:

- The purchase order had been written, the work had begun, and the initial review was scheduled to be provided to the Shore Protection Board in January of 2010.
- A preliminary report would be obtained from the consultant, and decisions would have to be made about whether or not a scaled back project was reasonable.

- 1 • If there was state money secured for the Town, it could possibly be redistributed to other
- 2 communities' projects.
- 3
- 4 • The Town was waiting for an answer on whether or not the funding from the state would
- 5 be secured.
- 6

7 Town Manager Elwell made several of the following comments regarding the Reach 8 project:

- 8
- 9 • It was a very clear indication from the Council as to why this piece of work was \$20,000
- 10 instead of \$150,000.
- 11
- 12 • The \$20,000 work was considered to be the minimum spent to keep the project alive,
- 13 complete the preliminary work, and find out whether the state money would be available
- 14 for the Town.
- 15
- 16 • If not, the cost could go as high as \$17 million, which was a factor for consideration. The
- 17 other factor was would what the Town was purchasing for that amount of money, offer
- 18 enough protection, or would it be slimmed down so much, that it was not sufficient.
- 19

20 During discussion of the timing of Reach 8, Town Manager Elwell noted that the deliverable was

21 always expected to be in January and that the work by staff on the front end was factored into it;

22 he said that there was no advantage to accelerate any element.

23

24 Public Works Director Brazil commented that the purpose to scale back the Reach 8 project was

25 to complete it quickly, as it was more likely to be permitted; the environmentalists would not

26 object to it; and the impacts were minimized for regulatory agencies.

27

28 Gail Coniglio, 1139 N. Ocean Boulevard, said that she was speaking on behalf of herself and not

29 as a council member. She asked that the Board support staff regarding the funds for the dredging

30 of the inlet. She worked closely with Mr. Elwell, Mr. Brazil, and Mr. Weber and had repeatedly,

31 spoke to Tom Lundeen of the Port of Palm Beach; and several County representatives. She

32 indicated that County Commissioner Karen Marcus was the District Representative along with

33 County Commissioner Burt Aaronson. Terry Gibson from the Surfriders, in addition to Great

34 Lakes Dredging, was in charge of both dredging projects were working with the Town, and she

35 hoped that they would be partners with the Town in looking for a ship-dredge operation. She

36 noted that staff had worked tirelessly on this project. She continued that the lack of dredging had

37 been a disappointment to the residents, that it was a major loss of the valuable sand. She

38 indicated that Dan Bates from the County and Tom Lundeen had not appropriated money, but

39 had been asked repeatedly for the money to be appropriated, and that they had been kept in the

40 loop. The Town was dragging the anchors of the cooperative team mates.

41

42 Responding to Chair Ecclestone, Ms. Coniglio noted that she would follow up with County

43 Commissioner Marcus and that she would also talk to George Mastics.

44

1 Responding to Vice Chair Frank, Ms. Coniglio said that every conversation with the Port of  
2 Palm Beach and the County was recorded and documented, and that Deputy Town Manager Tom  
3 Bradford was at every Port of Palm Beach meeting.  
4  
5

6  
7 X. OPPORTUNITIES TO WORK TOGETHER WITH ENVIRONMENTAL ADVOCACY  
8 GROUPS [H. Paul Brazil, Director of Public Works]  
9

10 Public Works Director Brazil provided an overview of working together with environmental  
11 advocacies. Several of the following issues were discussed:  
12

- 13 • Surfrider Foundation wrote a letter to Congressman Ron Klein on the Town's behalf  
14 saying that the sand should be on the beach.
- 15 • The other environmental group that affected us the most was Reef Rescue.
- 16 • There was an issue of possible cumulative hard bottom impacts due to the previous Mid-  
17 Town projects. The Town and the Florida Department of Environmental Protection  
18 (FDEP) have monitored the Breakers rock pile for years; there was a near shore reef just  
19 south of it.
- 20 • In the next few months, staff will work with the FDEP to determine if the Town's  
21 projects had impacted the reefs, and what should be done about it. It would be a good  
22 opportunity to sit down with Reef Rescue to participate in the discussion.  
23

24 Member Lindsay Buck commented that it was wonderful that the Town was reaching out to the  
25 environmental groups, and encouraged Mr. Brazil to keep going with it.  
26

27 \* \* \* \* \*

28  
29 Town Manager Elwell provided an update on the Supreme Court Case of the private property  
30 owners in Walton County, Florida, who sued over the erosion control line, which was the law of  
31 the state that resulted in the taking of private property.  
32

33 At the request of the Board, Mr. Elwell provided a full report of the case.  
34

35 Mr. Elwell responded to questions and comments by the Board.  
36

37 The Internal Improvement Trust Fund was decided by the Governor and the Cabinet, who sits as  
38 the Trustees.  
39

40 Responding to Council Member Diamond, Town Manager Elwell noted that if the case was  
41 overturned, it was unknown how the legislature would deal with support for coastal protection  
42 projects in the state.

\* \* \* \* \*

Discussion occurred among the Board Members and staff regarding the approval for the permits for the placement of groins, the urgency to complete it quickly, and that the expense should be expected. Vice Chair Frank noted that in this country, all along the coastline, all the towns and cities have the same situation, but their citizens did not argue about budgeting the money for the maintenance of the beaches. Several of the following comments were discussed:

- The suggestions from the old Shore Protection Board would be considered for the future.
- Permitting for groins was difficult for many reasons, including hard bottoms.
- The Town was unique, as it had environmental objections that other municipalities on other coastlines do not have.
- The residents on the outside do not realize that everywhere in the country the same amount of money, if not more, was being spent on maintaining beaches.
- The groins had not been maintained for the last 40 years.
- Midtown groins were installed out of an emergency situation.
- Permits could be obtained for spot fixes more quickly in areas of erosion that were more dangerous than others.

Member Raffo made comments about the Board's work during this past year and expressed his views about the priorities for future action, stressing that these had not really changed much from when he served on the first Shore Protection Board in the late 1990's.

Mr. Roddy commented on joining with lobbyists for the hotel industry, as the tourists come to enjoy the sea life and the beaches, as the Breakers had done.

*Member Katz left the dais to speak to reporter William Kelly.*

#### XI. PLANNING FOR 2010 [Peter B. Elwell, Town Manager]

- December 2009 Town Council Meeting

Town Manager Elwell announced that there were two Shore Board positions being considered at the December 17, 2009 Town Council Meeting. The seats that would be considered are held currently by Member Richard Raffo and Member Scott Hicks.

- Proposed Next Shore Protection Board Meeting: January 28, 2010

1  
2 After discussion, it was decided that the next Shore Protection Board Meeting would be held on  
3 January 22, 2009 at 9:00 a.m.  
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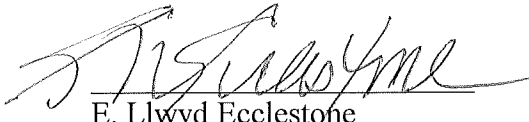
- 5 • Quarterly Meeting Schedule (with special meetings, as needed)

6 Chair Ecclestone stated that he would like to schedule the meetings as needed. Member  
7 Goldstein added that if a report was ready, then the Board should meet. That was the consensus  
8 of the other Members as well.  
9  
10

11 XII. ADJOURNMENT

12 There being no further business to discuss, the Shore Protection Board meeting of Friday,  
13 December 4, 2009, was adjourned at 12:23 p.m.  
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17  
18  
19  
20  
21  
22  
23

APPROVED:

  
E. Llwyd Ecclestone  
Chairman