

TOWN OF PALM BEACH

Office of The Town Clerk

REPORT OF THE SHORE PROTECTION BOARD MEETING HELD ON WEDNESDAY, APRIL 8, 2009

1 I. CALL TO ORDER

2

3 The Shore Protection Board was called to order at 9:04 a.m. on Wednesday, April 8,
4 2009, in the Town Council Chambers.

5

6 II. ROLL CALL

7

8 On roll call, all Shore Board members were present, except for Chair Ecclestone, who had
9 an unexcused absence. Member Hicks arrived at 9:20 a.m.

10

11 III. PLEDGE OF ALLEGIANCE

12

13 Vice-Chair Frank led the Pledge of Allegiance.

14

15 IV. APPROVAL OF AGENDA

16

17 Vice Chair Frank announced that after the Approval of the Agenda, he would like to
18 move Item VIII. to the next item.

19

20 **Motion made by Member Goldstein and seconded by Member Lindsay Buck to**
21 **approve the Agenda as amended. On roll call, the motion carried unanimously.**

22 V. APPROVAL OF THE MINUTES OF THE MARCH 26, 2009 MEETING

23 Town Clerk Cunningham announced some changes received by Board Members
24 Ecclestone, Goldstein and Lindsay-Buck and incorporated them into the Minutes.

25 **Motion made by Member Goldstein and seconded by Member Raffo to approve the**
26 **March 26, 2009 Minutes as corrected. On roll call, the motion carried unanimously.**

27 VI. COMMUNICATIONS FROM SHORE PROTECTION BOARD MEMBERS

28 Mr. Brazil indicated he had received much correspondence from citizens regarding the
29 recent ALJ decision and has been distributing it to Town Council and the Shore Board Members

1 as it is received. He added as an informational item only- the Shore Protection Board asked the
2 Town Council to pursue an agreement with Palm Beach County and the item will be presented to
3 the Town Council on the 14th of April for approval. Preliminary talks have already begun with
4 the County.

5 Member Katz indicated he has been doing a lot of research and time is of the essence. He
6 would like to review what the Board has done and how they would move forward. He wants bi-
7 monthly meetings and wants to hire consultants by the next meeting. He then asked about
8 funding. He stated that the Shore Board should be looking at funding sources from the Congress,
9 have the Mayor attend more meetings and look at State funding sources. Council Member Kleid
10 responded that the Finance Director has provided funding options to the Town Council and it
11 was decided that the funding sources are the responsibility of the Town Council and not the
12 Shore Board.

13 VII. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

14 Council Member Kleid responded to the Shore Board Members commenting that the
15 Town should try to work with the County. He informed the Shore Board that the Town Council
16 has tried, but so far it has been unsuccessful.

17 Peter Pettie, 3400 S. Ocean Blvd., commented on the island and stated it is exposed to a
18 potentially catastrophic event. The Shore Protection Board must make decisions on Reaches 7
19 and 8. He urged the Board to understand the ALJ decision. He provided his opinions on what he
20 felt should be done on Reaches 7 and 8.

21 Sharon Stewart, 225 El Pueblo Way spoke on behalf of the Garden Club of Palm Beach.
22 She was supportive of the original beach restoration plan. At the Garden Club's March meeting,
23 the Club strongly endorsed the Phase I and Phase II Sand Transfer Plant as well as endorsing the
24 dredging of the inlet. She also commended staff members Mr. Paul Brazil and Mr. Rob Weber
25 and the Town Council for their efforts.

26 Council Member Richard Kleid, 2660 S. Ocean Blvd., informed the public that the reason
27 the Council decided not to pursue the Permit for Reach 8- was the advisement of the attorney. It
28 was felt that the Judge provided a one-sided opinion and it would be difficult to succeed in an
29 appeal. They offered other alternatives, including cooperation with the DEP, and it was decided
30 that it was the best interest of the Town to abandon the project and try something different.
31 Member Katz asked what the cost was and Council Member Kleid indicated he thought the
32 Town spent \$1.7 million on the lawsuit. He added that there currently was no money specifically
33 dedicated to the shore projects, but there are reserves that the Town Council could approve their
34 use if other projects are recommended.

35 *Informational Items:*

1 VIII. CONVERSATION OF USACE PERMITTING REQUIREMENTS VIA
2 TELECONFERENCE [David Hobbie, USACOE Jacksonville District, Chief, Regulatory
3 Division]

4 *This item was heard immediately following Item IV.*

5 Ms. Tori White, from the Palm Beach Gardens Regulatory Program from the USACOE
6 spoke prior to the conference call. She presented a Power Point to the Shore Protection Board
7 highlighting the workload, initiatives and the permitting process. A copy was submitted into the
8 record.

9 Mr. David Hobbie, USACOE, Jacksonville District Chief, Regulatory Division of the
10 USACOE was contacted via telephone. He discussed options for the future beach erosion and
11 nourishment projects. Mr. Hobbie indicated he has been to Palm Beach several times and he is
12 familiar with our area. Some of the issues that need to be addressed were: wave actions, sea
13 turtles, and beach erosion. He suggested trying to consider long term solutions, although it is
14 difficult to overcome. He stated he would like to work with the Town, but is a lengthy process
15 and may take 5-7 years to get a permit.

16 Vice Chair Frank asked about the permitting problem with Reach 8 and also Reach 7. Is
17 the USACOE opposed to structure solutions? Mr. Hobbie said they are if they impact hard
18 bottoms. Vice Chair Frank also asked if the USACOE would require an EIS (environmental
19 impact study) for structure projects? Mr. Hobbie said no - but the impacts on the hardbottoms
20 can change that. Ms. White added that the South Palm Beach project did require EIS. The Singer
21 Island project also required an EIS. Vice Chair Frank asked if near shore breakwaters be self-
22 mitigating. The USACOE opinion is that they are not. Other Members asked questions. Vice
23 Chair Frank asked what was Ms. White's position was on grain size compatibility. Ms. White
24 responded that they use the US Fish and Wildlife Commission guidelines because grain size
25 impacts the turtles.

26 Mr. Brazil added that in addition to USACOE requirements, the State Department of
27 Environmental Protection (DEP) also requires a permit. He was unaware of any properties that
28 are in jeopardy right now. Member Goldstein indicated that years ago there were very large
29 beaches and dunes and many of the condos were not built too close to the water. The beach has
30 eroded and the high tide line has kept getting closer to the buildings since then. And now the
31 USACOE says that the buildings were built too close to the water.

32 Eileen Curran, an original member of the Shore Protection Board, directed Ms. White to a
33 Duke University research book entitled "The Corps and the Shore". The policy of the USACOE
34 of the Pacific coast is totally different from the East Coast and the Gulf Coast. In the Pacific
35 coast, the sand is immediately replaced. Ms. White responded that the inlets maintained by the
36 Corps are handled by the civil works division and not the regulatory side so she could not explain
37 the differences in projects.

1 Member Katz asked the Ms. White and other staff from the USACOE to visit Sloan's
2 Curve and Phipps Park to actually view the beaches, He asked for the priorities when looking at
3 projects: People, turtles, sand etc. Ms. White responded that there are over 22 public interest
4 factors that need to be looked at on every permit application.

5 Member Raffo mentioned economics and stated that the town pays a lot of taxes and the
6 Town's taxed evaluation is \$13 billion. The Town is worth a lot of money and the USACOE is
7 allowing it to be washed away. There is a very critical erosion problem, according to USACOE,
8 and asked why this continued erosion is being allowed. Ms. White responded there are four
9 major factors that need to be addressed and ALL of the regulated public is considered, not just
10 the coastal residents. She reminded the Board that the USACOE did issue a permit for Reach 7
11 and did attempt to issue a permit for Reach 8. The USACOE was not responsible for the State
12 and Judge's decisions. Member Lindsay Buck indicated that the sea walls in Reach 2 have saved
13 the properties in the North End. She asked how long it would take to obtain a permit if a sea wall
14 was needed. Ms. White responded that if it is above the high tide line, no permit is necessary.

15 Peter Pettie, 3400 S. Ocean Blvd., asked for clarification and asked if the USACOE had
16 approved the permit for the Reach 8 project. Ms. White responded that they issued an intent to
17 permit, but did not have the State approved water permit that was also required. If that had been
18 received, then they most likely would have approved the project. He then gave a synopsis of
19 2001-2004 USACOE projects near Sloan's Curve.

20 Member Hicks indicated that the County spoke to the Shore Protection Board and they
21 were indicative that structures are self-mitigating and that contradicts what Ms. White said earlier
22 in her presentation. Mr. Hobbie indicated the Town can count on a commitment to work
23 together with the USACOE. He added that the Fish and Wildlife Commission and Natural
24 Fisheries Commission also needs to be involved. Ms. White also suggested inviting the
25 neighboring municipalities. Mr. Brazil, Director of Public Works, asked if a lower relief
26 breakwater might relieve some of the concerns of the USACOE. Ms. White indicated that it may
27 be compromising the sand accretion, but could help with the turtle issues.

28 Member Raffo gave the example of the Palm Beach Country Club and how it took two
29 years to get a permit to repair a failing sea wall. It seemed unreasonable to take that long. Mr.
30 Hobbie responded that the Jacksonville office does 12% of the national workload and only gets
31 8% of the budget. They are limited by funds and staff. Ms. White stressed that sometimes, there
32 is delay on the applicant's part by submitting incomplete information.

33 Member Raffo asked if either Ms. White or Mr. Hobbie had heard about Woods Hole and
34 Stephens Institute. Ms. White had not heard of Stephens Institute. He asked If the Town used
35 either firm, would it be helpful in obtaining a permit. Mr. Hobbie responded that you have to
36 consider the opposite opinion as well. Member Hicks asked about Reach 8 and Ms. White
37 indicated there was no state water quality certification for a permit. She suggested that the Town

1 could submit a revised project application. Mr. Hobbie stated that there are very few projects that
2 would be self-mitigating.

3 Member Lindsay Buck thanked Mr. Hobbie for participating. She hoped he could
4 understand the frustrations of the residents. She mentioned the Inlet is the main factor of the
5 Town's sand deficit problem. One of the primary objectives of the Shore Protection Board is to
6 restore 100% of the inlet sand trapped on the north side to the littoral drift on the south side. The
7 USACOE is responsible for the dredging in the inlet. She asked if the USACOE would work
8 with the Town to dispose of the dredged inlet sand into to the littoral drift and further south
9 either along shore or onshore. Mr. Hobbie indicated that the civil division would have to look at
10 it prior to the Board submitting a permit.

11 Member Goldstein indicated that the USACOE is a national organization. He asked if the
12 Town could use other technologies from other coastlines. Mr. Hobbie responded that other area
13 have different project specifics and locations. Some locations lack resources or different fish
14 species etc. From a regulatory perspective, the permitters are not engineers, and could not tell the
15 Town what would or would not work. Member Goldstein indicated that Ms. White suggested
16 taking a global look at beach projects. Member Raffo stated that if there are no beaches, there
17 won't be turtles. Ms. White indicated there are other areas in Reach 8 that turtles can nest. He
18 also that Ms. White indicated that they are trying to improve the USACOE. Mr. Hobbie added
19 that the USACOE does not operate by judges' decisions. However, they do consider the
20 suggestions and sometimes become more aware when the USACOE make their decisions.

21 Member Goldstein asked if the Fish and Wildlife Commission (FWC) support a structure
22 solution. Ms. White stated they review each project on a case by case basis. Having worked with
23 Natural Fisheries Service and FWC, those agencies do have concerns. Higher relief is conducive
24 to larger fish- and they eat the smaller fish. Turtles may get blocked by structures or the turtles
25 get trapped in the structures and swim back toward shore. The USACOE is working with Palm
26 Beach County on developing a Sea Turtle Program. Ms. White was asked where has the
27 USACOE permitted structures. Ms. White responded other than Singer Island project which will
28 have 11 structures, there are 3 structures in Miami-Dade area and immediately downdrift from
29 the structure there is a huge erosion problem. She added that one Breakwater has been permitted
30 in southwest coast of Florida. Vice Chair Frank asked about hurricane season and what does the
31 USACOE consider an emergency. Mr. Hobbie responded that when it comes to emergency
32 permitting, the regulations prohibit pre-emptive actions. Now after the fact, the real issue is turtle
33 nesting season. It is difficult to get permitted during turtle nesting season. He added that post-
34 storm if there are structure being threatened, then action would be taken. When it is only wave
35 action on high tide line, the USACOE has no jurisdiction. There was an ALJ decision that went
36 against the Town's proposal. Vice Chair Frank indicated that the Town was suggesting what the
37 USACOE proposes, yet the judge ruled against it. Mr. Hobbie stated he really could not comment
38 on the Judge's opinion. Member Katz welcomed a meeting with all the parties involved and
39 hoped it would take place sooner rather than later. He asked what to say to a condo resident

1 whose home is threatened by wave action, and then it will be 3-5 years before there is any action.
2 Mr. Hobbie responded that anyone who lives on a shoreline, has to make certain risks. There is
3 no quick fix.

4 Vice Chair Frank asked about the permitting problem with Reach 8 and also Reach 7. Is
5 the USACOE opposed to structure solutions? Mr. Hobbie said they are if they impact hard
6 bottoms. Vice Chair Frank also asked if the USACOE would require an EIS (environmental
7 impact study) for structure projects? Mr. Hobbie said no - but the impacts on the hardbottoms
8 can change that. Ms. White added that the South Palm Beach project did require EIS. The Singer
9 Island project also required an EIS. Vice Chair Frank asked if near shore breakwaters be self-
10 mitigating. The USACOE opinion is that they are not. Other Members asked questions. What is
11 position on grain size compatability? Ms. White responded that they use the US Fish and
12 Wildlife Commission guidelines because grain size impacts the turtles.

13 Mr. Hobbie indicated that there is a great staff in the Palm Beach Gardens USACOE
14 office, but also need the Board to consider the suggested solutions. Vice Chair Frank stated that
15 the beaches have eroded considerably in the past few years. In trying to place sand on the
16 beaches, there has been resistance from USACOE. He felt there has not been compromise in the
17 past but would like to move forward and form a more positive relationship. There are too many
18 regulatory roadblocks. Florida's shoreline is key to the economy and tourism.

19 Informational Items: Vice Chair Frank informed that Board that the informational items
20 were distributed to the Board and there was no need to go over them unless anyone had any
21 questions.

22 IX. TRI-PARTY UPDATE [H. Paul Brazil, Director of Public Works]

23 a. Port Dredging

24 b. County Inter-Local Agreement

25 Member Hicks asked if the County was willing to work with us. Mr. Brazil indicated that
26 there have been preliminary talks to date.

27 Vice Chair Frank suggested the Shore Board suggest to the Town Council to work closely
28 with the Board of County Commissioners on projects. Member Hicks added he wanted to define
29 what "working with the County" means whether it is on projects, or is it a financial arrangement.
30

31 X. LESSONS LEARNED, COMPREHENSIVE COASTAL MANAGEMENT PLAN [H. 32 Paul Brazil, Director of Public Works]

33 Member Hicks indicated that some of the items in the CCMP still have not been
34 addressed. There is adaptive management and if the Town using a holistic approach, and is that

1 what the Shore Board wants to do. Member Katz wants a coastal consultant to provide technical
2 input. Member Raffo asked about Port Dredging. He asked about the status and Mr. Brazil
3 indicated that the USACOE may no longer fund the Port's dredging. There are talks ongoing with
4 the Port, the County and and Town to unite in purchasing a dredge and doing it themselves.
5 Member Raffo suggested that the original Shore Board "Bible" be updated by either Town Staff
6 or by the original shore board members. He feels it should not take a lot of effort to update that
7 plan. Member Raffo indicated he would like to stop wasting time. Mr. Brazil indicated that the
8 same firm is under contract with the Town, and if the Board decides, they could use them again.
9 Member Goldstein indicated that Paul and Rob would know who would be the best coastal
10 engineers. The CCNA process has already begun, as indicated by Mr. Brazil. There are also
11 speakers that will be brought in to provide advice. Mr. Brazil indicated that many firms could
12 come in and speak to the Shore Board without having to contract with them. Mr. Brazil explained
13 the CCNA process to the Board. Member Lindsay Buck stated she is just as anxious to get
14 moving on projects as her colleagues, but there is a list of objectives that the Board decided upon,
15 that they should focus on those. Member Raffo reiterated what Mr. Brazil said and stated that the
16 Board should contract with the creators of the "Bible" Stop wasting time. The board is aware of
17 what has to be done. Member Katz disagreed and wanted a fresh look at new engineers. Member
18 Goldstein stated that Rob Weber is a Town staffer that was hired to be the Coastal Engineer. Mr.
19 Weber's role is to manage the program and assist in the permitting process. Member Hicks
20 indicated that since the Board can only meet in the Sunshine, there will be a lot of "talk-a-thons" .
21 In looking at the objectives, they have to be discussed within the meetings and the tasks have to
22 be outlined. he was opposed to adding new engineers and the Board should not reinvent the
23 wheel. The board should build on what has already been done.

24 **There was discussion about obtaining a proposal from ATM since they are already**
25 **contracted with the Town. Mr. Brazil suggested bringing in ATM to speak to the Board**
26 **and the Board could meet them and form an opinion. member Raffo indicated that was an**
27 **excellent idea.**

28

29 XI. MONTHLY SHORELINE CONDITION ASSESSMENT [Robert Weber, Coastal
30 Coordinator]

31 This item was accepted as presented.

32

33 Action Items:

34

35 XII. SHORE PROTECTION BOARD GOALS [Scott Hicks, Shore Board Member]

1 Member Hicks was complemented by many Board Members for his hard work on the
2 project. **Member Goldstein made a motion to accept the project. He withdrew his motion**
3 **for lack of a second.**

4 It was noted that the two goals and actions should be kept as two separate working
5 documents. The actions would be a continuous work in progress.

6 **Member Lindsay Buck made a motion to accept the Board Goals and accept Member**
7 **Hicks' draft coastal priorities report. Seconded by Member Hicks. The motion passed**
8 **unanimously.**

9 It was noted that the two goals and actions should be kept as two separate working
10 documents.

11

12 **XIII. DRAFT COASTAL PROJECT PRIORITIES [Robert Weber, Coastal Coordinator]**

13 Mr. Brazil gave a summary of the Board Priorities.

14 Vice Chair Frank wanted to make a recommendation to Town Council to authorize
15 funding to hire firms. Mr. Brazil indicated some of the firms that were recently hired by the
16 Town have different strengths. The Sand Transfer Plant consultant needs to have experience with
17 permitting. Reaches 7 and 8 need to have an experienced firm with groins and breakwaters.
18 Reaches 7 and 8 should be separated into separate projects. The next step is to get proposals for
19 each project. At the same time, the Shore Protection Board could recommend to the Town
20 Council that the projects should be funded.

21 **Motion by Member Katz and seconded by member Goldstein to recommend to**
22 **Town Council to approve the following three items:**

- 23 • **Sand Transfer Plant - Phase I renovation and Phase II permitting**
- 24 • **Reach 7 - address the "hot spot" at the north end of the project with a**
25 **possible structure and limit amount of imported fill(not a full beach**
26 **nourishment)**
- 27 • **Reach 8 - explore extending the proposed County project into the southern**
28 **end of Reach 8 and possible dune project with imported fill.**

29 **Upon roll call, the motion carried unanimously.**

30 . The next items Mr. Brazil discussed were the short-term Inlet Sand Management and
31 mid-town beach projects. He asked for a recommendation from the Board. Member Raffo agreed
32 with Mr. Brazil regarding the two projects. He asked why the sand could not be used from the

1 Sand Transfer Plant. Mr. Brazil indicated that there is about 250,000 cubic yards pumped per
2 year. The North end needs that sand. Member Lindsay Buck asked about mid-town and if it was a
3 cost sharing project, and it is. Mr. Brazil indicated that there should be cost-sharing with DEP for
4 Reach 7.

5 Mr. Brazil then discussed the long term items of innovative technologies, legislative
6 initiatives, and to seek alternative economical sand sources, and monitor performance of the STP.

7 XIV. SUMMER 2009 SCHEDULE OF MEETINGS [Sarah E. Hannah, Assistant Town
8 Manager]

9 It was discussed that the next Shore Board meeting would be held on April 23, 2009, in
10 Town Council Chambers and the following months would be one day long meetings on the
11 fourth Thursday of the month. Assistant Town Manager Hannah reminded the Board that the
12 meetings would be off-site and the locations would change. She will distribute a schedule of
13 dates and locations. Member Katz asked if there could be more excused absences since the
14 Board is meeting more frequently. Assistant Town Manager Hannah asked the Town Clerk to
15 explain the absence procedure. Town Clerk Cunningham explained that the definition of an
16 excused vs. unexcused absence is defined by State Statute and in the Town Code of Ordinances.
17 She cited examples of excused absences as jury duty, religious holidays etc. An unexcused
18 absence would be work related, vacations etc. The Town Clerk will research the Town Code
19 and inform the Board of acceptable absences.

20 XV. SHORE PROTECTION BOARD SPEAKERS LIST FOR SUMMER 2009 [Robert
21 Weber, Coastal Coordinator]

22 Members Raffo and Goldstein stated that more people in Town need to become more
23 involved with the Shore problem. They stated that it appears that no one cares and noted there
24 were only six people in the audience. Member Katz indicated that he feels very few people care.
25 The combination of newspapers and PR activity tell people what the Board has done. There are
26 also organizations are in town that could distribute information.

27

28 XVI. ITEMS FOR FUTURE MEETINGS [Peter B. Elwell, Town Manager]

- 29 • Coastal Protection Structures Overview and Permitting, Humiston & Moore Engineers
30 (April 23)
- 31 • Alternative/Innovative Technologies/Paden Woodruff, FDEP (April 23)
- 32 • Town-Wide Sediment Budget (April 23)
- 33 • Multi-Purpose Artificial Reefs - John Hearin, ASR (May)

1 • Permeable/Semi-Permeable Structures

2 • Coastal Project Funding

3 It was noted by Mr. Weber that ATM will be added to the April 23rd agenda. All other
4 items were approved by the concensus of the Board. Member Raffo asked when Wood's Hole
5 was coming and was informed that they are coming in May to speak tot eh Shore Board.

6 XVII. ADJOURNMENT

7 There being no further business, the Shore Protection Board meeting of
8 Wednesday, April 8, 2009 was adjourned at 1:21 p.m.

9

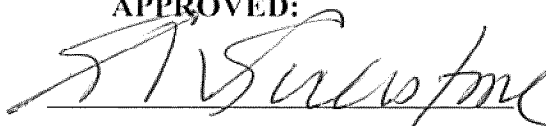
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APPROVED:

A handwritten signature in cursive script, appearing to read "E. Llwyd Ecclestone", written over a horizontal line.

E. Llwyd Ecclestone
Chairman