TOWN OF PALM BEACH

Office of The Town Clerk

MINUTES OF THE REGULAR TOWN COUNCIL HELD ON TUESDAY, DECEMBER 9, 2008

I. CALL TO ORDER AND ROLL CALL

The regular Town Council meeting was called to order on Tuesday, December 9, 2008, at 9:30 a.m., in the Town Council Chambers. On roll call, the following elected officials were found to be present:

Mayor Jack McDonald
President Richard M. Kleid
President Pro Tem Gail Coniglio
Council Member Denis P. Coleman
Council Member Susan Markin
Council Member David A. Rosow

Others present for all or a portion of the meeting were:

Town Manager Peter B. Elwell
Deputy Town Manager Thomas G. Bradford
Assistant Town Manager Sarah E. Hannah
Town Attorney John C. Randolph
William Amador - Fire-Rescue Chief
Paul Brazil - Public Works Director
Eric Brown - Public Works Assistant Director
Jay Boodheshwar - Recreation Director
William Crouse - Human Resources Director
Jane Day - Historical Preservation Consultant
Charles Langley - Public Works Assistant Director
John Page - Planning, Zoning and Building Director
Michael Reiter - Police Chief
Joanna Cunningham - Town Clerk

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II. INVOCATION AND PLEDGE OF ALLEGIANCE

Town Clerk Cunningham gave the invocation. President Kleid led the Pledge of Allegiance.

III. PRESENTATIONS

There were none.

IV. COMMENTS OF MAYOR JACK McDONALD

There were none.

V. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

Council Member Rosow:
Announced that the Water Committee meeting scheduled for December 16, 2008 has been cancelled.

Town Manager Elwell:
Announced that the Finance and Tax Committee meeting also scheduled for December 16, 2008 will still occur.

VI. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

(Another opportunity for communications from citizens will be offered immediately after the lunch break.)

Jere Zenko, 232 Tangier, made several comments.

Council Member Coleman suggested that if persons want to make a change in the Town Policies, perhaps they should run for Town Council.

Council Member Markin responded to Ms. Zenko's comments by stating that the Town Council for years, has had the policy that the Town Police force will be the highest paid in Palm Beach County and it will continue to do so until the Council votes against it.

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APPROVAL OF THE AGENDA

Council Member Markin requested that item D. 1. Be pulled from the Consent Agenda and moved to Regular Agenda. Council Member Coleman, through Council President Kleid, asked that two items, VII. C. 2 and 3, be pulled from the Consent Agenda and moved to the Regular Agenda.

The following modifications were made to the Consent Agenda:

PULLED Item D. 1. and moved to Regular Agenda Item VII. B. 8

PULLED Items C 2 and C3. Moved to Regular Agenda Item VII. B. 7

Council President Kleid announced the following items for the Regular Agenda:

TIME CERTAIN: 11:00 A.M. on page 3, Item VIII. B. 1., Florida Power and Light Regarding proposed Riviera Beach Energy Center

TIME CERTAIN: 1:30 P.M. On page 4, Item VIII B. 2., Port of Palm Beach Regarding Inland Port Logistics Center and Inlet Expansion Feasibility Study.

Motion made by Council Member Markin, seconded by Council Member Rosow to approve the Agenda as Amended. On roll call, the Motion passed unanimously.

VII. CONSENT AGENDA

A. MINUTES: NOVEMBER 12, 2008
APPROVAL OF THE MINUTES OF THE TOWN COUNCIL MEETING

B. APPROVAL OF MAJOR MATTERS CONSIDERED BY THE ARCHITECTURAL COMMISSION AT ITS MEETING ON NOVEMBER 21, 2008.

C. RESOLUTIONS

1. RESOLUTION NO. 100-08 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Mutual Aid Agreement with Subscribing Palm Beach County Law Enforcement Agencies for Sexual Predator / Offender Tracking Task Force and Authorizing the Mayor, Town Council President, Town Manager, and Chief of Police to Execute the Same on Behalf of the Town. [Michael S. Reiter, Chief of Police]

2. RESOLUTION NO. 101-08 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Purchase Order to C3TS for North Lake Way Storm Sewer Design Services for the Town of Palm Beach. [H. Paul Brazil, Director of Public Works]
Item moved to Regular Agenda as item VII. B. 7.

3. RESOLUTION NO. 102-08 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Purchase Order to Kimley-Horn for Tangier Avenue Storm Sewer Design Services for the Town of Palm Beach. [H. Paul Brazil, Director of Public Works]
Item moved to Regular Agenda as item VII. B. 7.

4. RESOLUTION NO. 103-08 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Purchase of the Granicus Software System for the Town Clerk's Office for Meeting and Minute Management and Authorizing the Town Manager to Execute this Purchase on Behalf of the Town.
[Jane Struder, Director of Finance]

D. OTHER

1. Approval of Extraordinary Longevity Pay for Top Performing Employees Having in Excess of Twenty (20) Years of Service to the Town of Palm Beach. [Peter B. Elwell, Town Manager]
Item moved to Regular Agenda as item VII. B. 8.

2. Approval of Golf Course Committee Request for Transfer of Donated Funds.
[Jay Boodheshwar, Director of Recreation]

Motion made by Council President Pro Tem Coniglio and seconded my Council Member Markin. On roll call, the motion carried unanimously.

VIII. REGULAR AGENDA

A. Old Business

1. Presentations by Lobbying Firms Who Submitted Proposals in Response to Town RFQ No. 01-2009. [Peter B. Elwell, Town Manager]

01/29/2010

Council President Kleid announced that there were five lobbying companies that were selected to give presentations alphabetically. Each presenter was given ten minutes to speak followed by a question and answer session by the Town Council.

The five firms were:

- Alcalde & Fay by Mr. L.A. "Skip" Bafalis and Mr. Jim Davenport for the Washington D.C. lobbying only.
- Greenberg Traurig by Mr. Joe Corrigan representing the Washington D.C. lobbying and Mr. Hayden Dempsey representing the Tallahassee lobbying.
- Lewis Longman & Walker, P.A. by Terry Lewis and William Capko for the Tallahassee lobbying only.
- Marlowe & Company by Mr. Howard Marlowe, Mr. Josh Gaboton, and Mr. Brad Pickel for the Washington, D.C. lobbying only.
- Smith & Ballard by Mr. Joseph McCann and Mr. Brian Ballard for the Tallahassee lobbying.

Town Council President Kleid announced that the Council would enter into an Executive Session to discuss the selection of State and Federal Lobbyists.

Council Member Markin commented that she did speak to the Town's current lobbying firm, Patton Boggs and had asked them why they had not responded to the RFQ. She stated that the firm did not feel it was necessary to go through an RFQ and was somewhat insulted. They do wish to continue to represent the Town.

Council President Pro Tem Coniglio indicated that her preference would be to have a State and a Federal Lobbyist. Her choices would be for Smith & Ballard for the State Lobbyist, Marlowe & Company for Federal Lobbyist, but she was also impressed with Alcade & Fay due to their prior experience with the sand transfer plant.

Council Member Rosow stated that he wanted Marlowe & Company as a full service firm. Economically, he would like to use one firm as opposed to two separate ones.

Motion made by Council Member Rosow and seconded by Council Member Coleman to engage Marlowe & Company as both Federal and State lobbyist.

Council President Kleid asked for clarification from Marlowe & Company if they do perform lobbying at the State Level and they do not.

Council President Pro Tem Coniglio inquired as to the costs as the RFQ indicated $60,000 per year. Town Manager Elwell informed the Council that there is $100,000 budgeted for lobbying.

Council Member Rosow withdrew his motion and opened the floor for further discussion.

Mayor McDonald indicated that he was going to offer the opposite opinion of Council Member Rosow. With two lobbying firms, you would have twice the contacts. He added that Smith & Ballard stated well that their firm has done everything that was asked of them in the past.

Councilman Coleman recommended Marlowe & Company due to their relationship with the Corps. (U.S. Army Corps of Engineers), and also Greenberg Traurig since they had a former Corps employee working for them. He feels the focus and the Town's biggest need should be the permitting.

Council Member Markin was impressed with Greenberg Traurig's personal experience with the Corps and she would like to utilize one firm, although she was impressed with Marlowe & Company's approach to using collaborative efforts. There would be one firm for monthly updates.

Council President Kleid expressed that he was inclined to have two firms. There would be more contacts. He selected Marlowe & Company due their experience with Shore protection and beaches. He was impressed with Smith & Ballard and they have performed well for the Town in the past at each task that was assigned to them.

Council Member Rosow asked Mayor McDonald how much of a lobbying effort was really needed in Tallahassee. He gave examples of prior years' projects. The angioplasty issue of getting a nearby hospital to be able to perform those procedures was successful. The firm is generally given a task list prior to Session.

Town Manager Elwell added to Council Member Rosow's question that a firm is necessary not only to promote the Town's issues, but to be aware of other legislation that may be proposed that would have detrimental or beneficial impacts for the Town.

Council President Pro Tem Coniglio made a Motion to contract with Marlowe & Company to represent the Town on the Federal level for $5,000/month and maintain the relationship with Smith & Ballard on the State level for $40,000/year and require regular monthly updates.

Motion made by Council President Pro Tem Coniglio and seconded by Council Member Markin to hire Marlowe & Company and Smith & Ballard. On roll call, the Motion passed unanimously.

2. Coastal Protection Matters

a. Report on Countywide Coastal Council Meeting on November 21, 2008.
[Gail Coniglio, Town Council President Pro Tem]

President Pro Tem Coniglio indicated that she attended a meeting on November 21, 2008 and that there was a unanimous and positive response to acting in a unified body to demand new regulatory reform.

The neighboring municipalities, Riviera Beach, which includes Singer Island, and South Palm Beach are having difficulties obtaining permits and protecting their properties. They are ready to work with the Town of Palm Beach. The current legislative position is unique since the Senate President is from our area (Senator Jeff Atwater) and there is support federally from Congressman Ron Klein, and County Commissioner Addie Greene has offered county-wide support, which previously had been absent, and the inclusion of the new Shore Board which will reach out to other communities and legislative efforts.

Council President Pro Tem Coniglio also mentioned that Council Member Rosow is the Coastal representative to the League of Cities. At the Council Coastal meeting, all municipalities were encouraged to come together and adopt a Resolution and their endorsement to move the coastal effort forward.

The next meeting is in February.

b. Appointments to the Shore Protection Board.
[Peter B. Elwell, Town Manager]

Council President Kleid announced the appointment of the following members to the Shore Protection Board:

<u>Three-year term</u>
E. Llwyd Ecclestone
Lewis Katz
Barbara Lindsay

<u>Two-year term</u>
Gerald Frank
Lee David Goldstein

<u>One-year term</u>
Scott Hicks
Richard A. Raffo

3. Height of Vegetation and Ocean Vista Ordinance.
[John C. Randolph, Town Attorney]

Town Attorney Randolph provided a history of the Ordinance and stated that it began with complaints from residents that it was not being enforced. There are State Guidelines, but not Statutes that indicate you cannot trim the seagrapes below 42", and 30" is the height for new construction. There currently is an Ordinance being discussed at the Zoning Commission that would coincide with the State Guidelines.

Council Member Rosow indicated that he attended the recent zoning commission meeting and the Town Ordinance states that the seagrapes or ficus must be 48".

After much discussion over what the new proposed height should be, a five minute break was taken.

Town Manager Elwell offered that for simplicity, leave the variance between 42-48", then you would not have to obtain permit from the State at all. Mr. Elwell spoke with Mr. Paul Castro, Zoning Administrator, and he suggested the hedges/seagrapes be 42" but then 48" on the Ocean Vista side. There are also issues about life safety and swimming pool fence barriers.

Motion made by Council Member Rosow but died for lack of a second.

Town Attorney Randolph suggested waiting for the recommendations from the zoning commission

Jack Maxey, Nightingale Club spoke about his dissatisfaction with the current Ordinance.

Janna Nugent, Greenberg Traurig spoke on behalf of an unnamed client who feels the current ordinance should not be enforced because of the inconsistencies between the State and the Town. She proposed that anything less than 6 feet be a hedge, over 6 feet is a tree. Ms. Nugent also indicated that the Town cannot force anyone to get a State Permit. She also indicated she believes that the ordinance was meant to be prospective, not retrospective.

Mr. John Ripley from the Preservation Foundation said that there were many other issues involved that also need to be looked into such as street lighting.

Motion made by Council Member Markin to maintain the Ocean Vista, and refer the item to the Planning and Zoning Commission and request consistency with the process for code enforcement.

Mr. Alan Golboro of the Zoning Commission spoke and said they had been studying this item, they were 3/4 of the way completed and the Council should have let the Commission come back to the Council with its recommendations.

Council President Pro Tem Coniglio agreed with Mr. Goldboro.

With a Motion on the floor by Council Member Markin, it was seconded by Council Member Coleman. On roll call, the Motion passed Unanimously.

B. New Business

1. Florida Power and Light Regarding Proposed Riviera Beach Energy Center.
[Rod Macon, Regional Manager, Florida Power and Light]
TIME CERTAIN: 11 A.M.

Mr. Rod Macon from FPL provided a Power Point presentation to the Town Council.

Council Member Coleman asked where the Town will get its electricity from. Mr. Macon indicated that it will come from the new plant at 20 mile bend that uses natural gas and will have three times the capacity as the current Riviera Beach plant. He also answered Council Member Coleman's question if there were any resources for energy audits. Mr. Macon replied that there are several different programs and rebates available for both resident and commercial customers. A person would need to call FPL to schedule an evaluation time.

Council Member Markin asked for clarification of the solar building and was told that it is the Administration Building. She also asked if there are any electromagnetic fields coming from that area, as she resides across the water from the plant. She was informed there are none and she is welcoming the reduction in emissions.

Council Member Rosow asked that if customers utilize the energy conservation programs and usage decreases, will rates increase. He was informed by Mr. Macon that they would not. His next question was if there is enough space to build a desalination water plant on the Riviera Beach site once the new plant is completed and would FPL consider selling the site to the Town.

Mr. Macon stated that the site is approximately 21 acres and could fit a small plant. He also informed the Council that several years prior, FPL was negotiating with Palm Beach, but nothing happened due to economics at that time. He stated that they would be happy to sit down again with Council to discuss the issues again.

Council Member Coleman asked if FPL would continue to be a customer of the Port of Palm Beach. FPL is currently 25% of the Port's revenue, primarily for oil purchases for both the Martin County and Riviera Beach plants. He indicated that they would remain a customer of the Port in the future.

Council President Pro Tem Coniglio has many of the same questions for Mr. Macon that Council Member Coleman asked, and wondered about job loss and tax losses if FPL leaves that site. The Town of Palm Beach would like to work with FPL and look into building a desalination plant on that site because of its proximity to an electrical power source. Mr. Macon indicated that he is open-minded to that prospect.

The Town Council thanked Mr. Macon for the positive relationship the Town has with FPL, hopes it continues, and thanked him again for coming to the meeting.

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The luncheon recess was taken at 12:30 p.m.
The Town Council meeting of December 9, 2008 resumed at 1:30 p.m.

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2. Port of Palm Beach Regarding Inland Port Logistics Center and Inlet Expansion Feasibility Study.
[Manuel Almira, Executive Director, Port of Palm Beach]
TIME CERTAIN: 1:30 p.m.

Mr. Almira presented a Power Point to the Council regarding the future plans for an Inland Port. **Mr. Almira will provide a copy of his presentation to the Council.**

After much discussion, Mr. Almira indicated that they do not have a firm business plan, do not know how much the project will cost, and that most likely the project would be paid for by taxpayer dollars in conjunction with private partnerships.

The Council inquired about the response from the Mayor's letter asking for seven items to be clarified. Initially on paper, five of the seven items were agreed to. Mr. Almira then clarified that the items such as ship length are approved by the ship pilots and not the Port, they could not guarantee that there would be no blasting, and the Port is awaiting the results form the feasibility study to decide how deep to make the channel.

Council Member Rosow informed Mr. Almira that the Town is looking for a written commitment from the Port. Mr. Almira offered to take the items to the Port Commissioners for approval and would report back to Town

Council.

Bill Diamond, 220 Wells Road, indicated that with his experience as the Town Liaison to the Port, that no letter could be issued without the Port Commissioners' approval.

Mayor McDonald reiterated to Mr. Almira the Town's opposition to the Feasibility Study.

3. Alternative Processes for Annual Goal Setting by the Mayor and Town Council. [Peter B. Elwell, Town Manager]

Town Manager provided a brief history of the Annual Goal Setting process. He suggested that the process continue along the same lines, with changes to the title. The Town Council agreed.

Council Member Markin suggested grouping similar budget items together, or by issue.

Town Manager Elwell was directed to change the title to "Setting of Annual Budget Priorities" while continuing the same process used in prior years.

4. Options for Streamlining Town Council Meetings. [Richard M. Kleid, Town Council President]

Council President Kleid offered suggestions on how to streamline the Town Council Meetings. He suggested, but did not necessarily endorse, the following options:

- Delegating more duties to staff
- Limiting Public Comments
- Limit Council Comments
- Keep on Topic
- Have Public Workshop

Council Member Coleman indicated that you cannot shut the Council down, and it is not practical. He agreed with the delegating more to staff levels, and cited Development Reviews.

Council Member Markin indicated that there does need to be priorities and feels that the Council should stop talking about the meetings since this was the third time in recent meetings the topic has been discussed. As a Council Member, she feels she has the right to ask as many questions as necessary and she is the voice for the residents whom elected her. She is opposed to limiting Council comments. She also suggested purchasing a time clock, similar to what the County uses, with comment cards. She feels that the bell is disruptive.

Council President Kleid announced that he had previously discussed a time clock with Town Manager Elwell and that is to be included in the renovation of the Council chambers.

Council Member Coleman indicated that the Town should purchase two clocks immediately and donated one hundred dollars towards the effort. Council Member Rosow also donated one hundred dollars.

Council President Pro Tem Coniglio stated that she is a proponent of a one day meeting and suggested the Council Members police themselves. She also suggested that Development Reviews and other important topics need to be handled at Committee and Commission levels.

Staff was directed to purchase 2 digital time clocks prior to the January 14, 2009, Town Council Meeting.

Mayor McDonald indicated that it is difficult for the Council to delegate, but ultimately it is the Chairperson's responsibility to run the meeting efficiently.

Mr. Alan Golboro, Planning and Zoning Commission, stated that they look forward to individual comments from Council Members. He had a suggestion that he said was overridden. When subcommittees meet, have a member of Planning and Zoning attend so that they can be up to speed on other topics that overlap their meetings, such as the Water Committee, Landmarks etc.

Council President Pro Tem Coniglio defended her attachment to the prior day Development Review item which included the conditions of a number of valets. She indicated that when residents come to her with complaints, and the entity appears before the Council, she was responding to the residents.
Council Member Rosow agreed with Council President Pro Tem Coniglio by stating that the Council Members need to police themselves.

5. Modification of Deadline for Board/Commission Applications.
[Peter B. Elwell, Town Manager]

Town Manager Elwell indicated when the Council previously took actions to make the deadline for Board /Commission Applications, the deadline fell on Midnight Saturday night (10 days prior to Town Council Meeting). He requested that the deadline either become 5pm on Friday, or 5 pm the prior Tuesday. He would like it to be at the end of a business day rather than on a weekend where there have been issues with electronic submissions.

Council Member Rosow made a Motion to have the deadline be changed to Tuesday at 5pm. He then withdrew his Motion.

Council President Pro Tem Coniglio made a Motion, seconded by Council Member Coleman to change the Board/Commission applications to 11 calendar days which is Friday at 5pm. On roll call, the Motion passed unanimously.

6. Appointment of Town Manager Pursuant to Section 4.02(b) of the Town Charter. [Peter B. Elwell, Town Manager]

Motion made by Council Member Coleman, seconded by Council member Markin to appoint Peter Elwell Town Manager. On roll call, the Motion passed unanimously.

7. RESOLUTION NO. 101-08 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Purchase Order to C3TS for North Lake Way Storm Sewer Design Services for the Town of Palm Beach. [H. Paul Brazil, Director of Public Works]

This item was combined with Resolution 102-08, and was pulled from the consent agenda at the request of Council Member Coleman because the items were previously budgeted, and with the recent change in the economy, he felt the items deserved a second look. These two items will lead to expenditures in the seven figures.

Mr. Paul Brazil clarified that the project was part of the D-8 collection system and that would help with roadway drainage. The current system is working and this was an interconnection for the system that had previously been approved. Mr. Brazil answered Council Member Coleman's question regarding total costa dn he indicated it would be about $52,000 in design costs and approximately $500,000 in construction costs. The next Resolution would have similar costs.

RESOLUTION NO. 102-08 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a Purchase Order to Kimley-Horn for Tangier Avenue Storm Sewer Design Services for the Town of Palm Beach. [H. Paul Brazil, Director of Public Works]

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With regard to both projects, Council Member Coleman asked what would happen if the project was not done this year. Mr. Brazil responded that he did not feel any homes would be flooded if the Town did not perform the work.

Council Member Rosow made a Motion to defer both projects, seconded by Council President Pro Tem Coniglio. On roll call, the Motion passed 3-2 with Council Member Markin and President Kleid dissenting.

8. Approval of Extraordinary Longevity Pay for Top Performing Employees Having in Excess of Twenty (20) Years of Service to the Town of Palm Beach. [Peter B. Elwell, Town Manager] **Pulled from Consent Agenda.**

Council Member Markin had requested that the item be pulled from the consent agenda because in this tough economy she won't support the funding this year. She does support staff and feels that in good years, the longevity pay could be reinstated.

Mayor McDonald took the opposing opinion and stated that the families are counting on this money, and with everything else increasing in costs, the Town should show its support of staff.

Council Member Rosow indicated that he would have requested the item be pulled for discussion had Council Member Markin not done so. The subject should be reviewed by the Finance and Tax Committee for its review of benefits and programs.

Council President Pro Tem Coniglio supports staff, and also be fiscally responsible to the Town. She suggested changing the level at which an employee becomes eligible for the payment, which could allow the Town to slowly and gradually make a decision.

Council President Kleid agreed with Council Member Rosow and would like to see the item researched further at the next Finance and Tax Committee meeting .

Council Member Coleman said that if employees are paid in the top quartile, they should score in the top quartile as well.

Council Member Coleman made a Motion, seconded by Council President Pro Tem Coniglio, to approve the extraordinary longevity pay for this year. On roll call, the Motion passed unanimously.

IX. ORDINANCES

A. Second Reading

None

B. First Reading

1. ORDINANCE NO. 30-08 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Code of Ordinances of the Town Palm Beach at Chapter 18, Buildings and Building Regulations, Article XIII, Signs and Awnings, So as to Provide a New Section 18-932 Regulating the Period of Time During Which the Cloth Part of Canopies and Stationary Awnings May Be Removed on Commercial Buildings or on Residences Located Within Predominately Commercial Buildings; Providing for a New Article XVI Regulating the Use of Storm Shutters and Hurricane Protection Devices and Providing That the Use of Shutters and Hurricane Protection Devices May Not Exceed a Period of Fourteen Days During the Period June 1 to November 30 of Each Year on Commercial Buildings or Residential Dwellings Located Within Predominately Commercial Buildings; Providing Exceptions; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date. [John C. Randolph, Town Attorney]

Prior to reading the Ordinance, Town Attorney asked if the item could be discussed first.

Council Member Rosow did not like the wording, nor did President Kleid. Mayor McDonald indicated that the language is not clear.

Council President Pro Tem Coniglio felt the wording was infringing upon property owners' rights.

Town Manager Elwell clarified that this Ordinance only pertains to Commercial Districts with residences.

Councilman Coleman suggested referring the item back to the Planning and Zoning Commission for re-drafting. Council President Pro Tem Coniglio informed him that the ordinance came from the ORS (Ordinance, Rules and Standards Committee) and not P & Z. Council Member Coleman said it should go back there.

Council Member Markin stated that people who move in above a store should recognize that they are in a commercial zone.

Council Member Rosow made a Motion, seconded by Council Member Markin, that the Ordinance be re-drafted by the Town Attorney to apply only to residents in Commercial Districts. Also refer the item to ARCOM to come up with recommendations for the Town Council for all other residential shutter requirements. The Motion passed 4-1 with Council President Pro Tem Coniglio dissenting.

2. ORDINANCE NO. 31-08 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 2 of the Town Code Relating to Administration, at Article V Code Enforcement, Division 3 Procedure, Section 2-439 Citation Fine Schedule, So as to Provide That Violations of Section 42-230 Relating to Lawn Maintenance Equipment Shall Be Considered a Class III Violation and Thereby Impose a Penalty for a First Offense of $250.00 in Lieu of $125.00 for a First Offense for Class II Violations; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.
[John C. Randolph, Town Attorney]

Town Attorney Randolph read Ordinance No. 31-08 by title, as printed above.

Motion made by Council Member Rosow, and seconded by Council member Markin, to approve the Ordinance with Modification to Section 10.4 that a first offense become a Class III violation. Upon roll call, the Motion passed unanimously.

3. ORDINANCE NO. 32-08 An Ordinance of the Town Council of the Town of

01/29/2010

Palm Beach, Palm Beach County, Florida, Amending the Code of Ordinances of the Town of Palm Beach at Chapter 18, Building and Building Regulations, Article III, Architectural Review, Division 2, Architectural Commission, Section 18-175, Issuance of Permits, So as to Include Additional Language Relating to Conditions for Demolition and Adding a Requirement as a Condition of Being Granted a Permit for Construction in Commercial Zoning Districts That Financial Guarantees Be Provided to the Town for Demolition of Said Construction in the Event of Failure to Complete or Abandonment; Providing for the Substitution of Planning Zoning and Building Department Director for Building Official; Amending Section 18-201, to Substitute Planning, Zoning and Building Department Director for Building Official; Amending Section 18-205, Relating to Criteria for Permit to Incorporate the Financial Guarantee Required in Section 18-175; Incorporating a New Section 18-206 Setting Forth Conditions for the Granting of a Demolition Permit; Renumbering Existing Sections 18-206, 18-207 and 18-208; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.
[John C. Randolph, Town Attorney]

Town Attorney Randolph provided some background of the Ordinance, and that it could potentially pose issues for people trying to obtain financing, ant it only pertains to commercial properties.

Council Member Coleman was adamant that if the building is not completed within a year, then it should be demolished.

Allen Wyatt, citizen, indicated that he was opposed since it will be difficult for banks to lend the funds and developers won't be able to get funding.

Mr. Alan Golboro, Planning and Zoning Commission, suggested that upon completion of the drawings, the developer would need to prove that monies are available to complete the project. The solution should be "Deed in lieu of foreclosure"

Council Member Rosow indicated that if the banks have an issue with the lending requirements, then perhaps they have the wrong developer.

Council President Pro Tem Coniglio indicated that in reality, there is still a two year window in which to find a new buyer, or complete the project.

Town Manager Elwell reiterated that the language gives the Town the power to demolish or to find a new buyer.

Motion made by Council Member Coleman and Seconded by Council Member Rosow to approve the Ordinance with modification to the language to describe commercial projects instead of commercial buildings with no single family residents being affected. The Motion passed 4-1 with Council President Kleid dissenting.

X. ANY OTHER MATTERS

There were none.

XI. ADJOURNMENT

There being no further business, the Town Council Meeting of December 9, 2008, was adjourned at 4:35 p.m.

APPROVED:

Richard M. Kleid
Town Council President

ATTEST

Joanna Cunningham
Town Clerk