MINUTES OF THE SPECIAL TOWN COUNCIL MEETING HELD ON NOVEMBER 30, 1995

I. CALL TO ORDER AND ROLL CALL: The meeting was called to order by President Lesly Smith at 10:00 a.m. on November 30, 1995, in the Town Council Chambers. On roll call, the following Elected Officials were found to be in attendance: President Smith, President Pro-Tem Jack McDonald, Councilmen Samuel McLendon, Leslie Shaw, and Allen Wyett. Mayor Paul Ilyinsky was absent. Also attending the meeting were Town Manager Robert Doney, Town Attorney John Randolph, Director of Building & Zoning Robert Moore, Planner/Projects Coordinator Timothy Frank, and Town Clerk Mary Pollitt.

II. INVOCATION AND PLEDGE OF ALLEGIANCE: The invocation was given by Mrs. Pollitt, and President Smith led the Pledge of Allegiance.

III. APPROVAL OF AGENDA: Motion made by Mr. Wyett to approve the agenda. The motion was seconded by Mr. McLendon. On roll call, the motion carried unanimously.

IV. CONSIDERATION OF OFFICIAL TOWN COMMENTS ON PROPOSED DOWNTOWN MASTER PLAN FOR THE CITY OF WEST PALM BEACH:

Mr. Randolph reported that he and other representatives of the Town attended the last public hearing and did not make any headway. Mr. Randolph said that subsequent to that meeting, at the invitation of Mayor Nancy Graham, the Staff met with Rick Greene, Mark Hill and an Assistant City Attorney to discuss the plan in an attempt to better understand the plan from the City of West Palm Beach's viewpoint. Mr. Randolph said the information from that meeting would be reported to the Town Council at this meeting and additionally recommendations would be made to allow the Staff to present those recommendations at the third and final reading of the proposed ordinance at a public meeting scheduled for Monday, December 4, 1995. Mr. Randolph stated he did not think that whatever the Town of Palm Beach would say at the December 4th meeting would affect the decision of the City of West Palm Beach which is probably already cast in stone. Mr. Randolph said this third reading was probably recommended by their legal department after some changes were made in the ordinance, and the third reading was window dressing.

Mr. Randolph suggested that Mr. Frank present his report with an explanation of what the Town's perception of the plan was, how it affects the Town of Palm Beach, and the recommendation's of the Town to go forward.

Mr. Frank referred to his memorandum dated November 29, 1995, and the map shown on page 3 of that memorandum. Mr. Frank identified the issues:

The first issue was the Comprehensive Plan for the City of West Palm Beach and how it related to the Town of Palm Beach.

The second issue was how Town property within the City would be affected. Mr. Frank referred to areas on the maps included in his package. The problem with the Comprehensive Plan was that when the Town of Palm Beach did their master plan the State said that there must be measurable goals and objectives and there must be a whole series of planning. The Plan that was done by the Duany & Plater-Zyberk team for the City of West Palm Beach was totally deficient of measurable goals and objectives--they did not do traffic counts, they did not address the impact of development on traffic. That affected the Town of Palm Beach, since the introduction of additional residents into the area would affect certain areas where there are already problems. He added that the City of West Palm Beach was obligated to give the Town of Palm Beach such information on the impacts related to these matters, referring to Florida Statute 163, and Rule 9J5, and a complaint had been lodged last year on them not giving such information. Since that time, a report had been done by Kimley -Horn, Traffic Engineers, attempting to project some of the traffic flow on City streets. Mr. Frank noted that most of the Kimley-Horn report dealt with north/south traffic flows, however, staff would like to give attention to the two bridges and the east/west flow. He added that he was confident that this issue would be resolved.

Mr. McLendon asked for clarification on the traffic issue, questioning whether there was a traffic plan?

Mr. Frank replied that the Comprehensive Plan did require a full scale element for traffic, however, it was not included in the Duany & Plater-Zyberk report.

Mr. McLendon asked what the traffic plan was that Mr. Frank had referred to earlier?

Mr. Frank replied that it was a Kimley-Horn traffic study that looked at all of the existing streets, including the existing counts as well as projections. He added that the Objection, Recommendations and Comments (ORC) Report from the State had insisted that the City of West Palm Beach do a traffic plan, which resulted in the Kimley-Horn traffic study.

Mr. Wyett asked Mr. Frank what he felt the impact to the Town of Palm Beach would be, if the suggested 20,000 additional people were added to the area?

Mr. Frank responded that he thought the largest impact would be on the corner of Royal Poinciana and Coconut Row or Bradley Place, since any increased traffic in those areas would result in concurrency problems with the State Plan. He suggested that improved turn lanes and signals would have to be implemented, five or ten years down the road.

Mrs. Smith asked why it would be five or ten years down the road, since the City of West Plan Beach plans were for the next two or three years, and if Town roads were at maximum service now?

Mr. Frank replied that Town roads now were at an acceptable level of service, and each year several problem areas were monitored to see if there was an increase in the aggravation level. He noted that he had read several reports that demonstrated no significant increase now. If the Comprehensive Plan of the City of West Palm Beach was implemented, Mr. Frank stated that he believed it could have a negative affect, however not in the short period of time of two or three years.

Mr. Doney referred to the statistical report on the traffic element, and commented that it would have to be examined by the Town traffic engineer; until that request could formally be made in writing it should be stated as an objection of the Town for failure of the City of West Palm Beach to provide necessary specific information.

Mr. Shaw questioned what the studies would do--if the study would show an impact on Palm Beach, would the City of West Palm Beach have to solve the problems?

Mr. Frank replied that if an increase of traffic on the bridge was shown, the Town would have to respond to that.

Mr. Shaw stated that the Town would then have to resolve the problem caused by what the City of West Palm Beach was doing, and inquired if the City had any responsibility to help with the problem?

Mr. Frank responded that they would have some responsibility, and that the Town was objecting to the Plan, saying that they had not taken the concerns of the Town of Palm Beach into consideration, and a protest would be lodged with the State of Florida.

Mr. Wyett asked what the residents could look forward to at a practical level?

Mr. Frank advised that would not be known until data is received, however, as he had mentioned, turn lanes and signalization would have to be addressed.

Mr. Moore stated that getting into the finite details would be difficult, because it was purely speculative at this point, however, Mr. Frank was trying to convey that if the Town was impacted to a degree of difficulty, then the burden would be shifted to the City of West Palm Beach as to how to mitigate that. He asked the Town Council to keep in mind that the Duany & Plater-Zyberk Plan was a change in the Master Plan, and a significant change was the expectation that the north/south streets be turned into two ways, with stop lights in order to slow traffic, with a net result of slowing of traffic from the Town of Palm Beach as well. He added that change in their Plan, requiring the State to approve that type of philosophical change on redevelopment, still would come under the control of the State, and Palm Beach County. He noted that the objection of the Town should be centered on what the City would do to help mitigate traffic problems.

Mrs. Smith commented that perhaps the City of West Palm Beach had ignored the east/west traffic with the realization that the Town would be impacted so severely that there was a possibility of stopping cars coming into the Town of Palm Beach. Parking spaces were at a minimum, and people would continue to drive around, and additional cars would have to be stopped for the safety and security of Town residents.

Mr. Frank remarked that he was not sure that the ignoring of east/west traffic was deliberate, but rather was a question of awareness by the City of West Palm Beach.

Mrs. Smith stated that in previous discussions in this matter, the complaint was that the Town had not received the Plan until the very last minute, and questioned why the Town had not been given the information in a timely manner?

Mr. Frank responded that he could not answer as to why the report had not been released, but did not think it was directed at the Town of Palm Beach. He stated that there had been no actual change from the report that was released last year, but that he had experienced a hard time obtaining the report. The concerns of traffic issues and Town property in the downtown area had been brought to the attention of the City of West Palm Beach last year in response to their report.

Mr. McLendon asked if there had been a response from the City?

Mr. Frank replied that there had been no response from the City of West Palm Beach, however, the Intergovernmental Plan Amendment Review Committee, a County function, sustained the objection of the Town. The State had commented

that the City of West Palm Beach must do a traffic plan, working more with the Town of Palm Beach. The City did not feel that was an obligation, but did do the traffic study itself.

Mrs. Smith asked if the City of West Palm Beach had said in writing that they felt no obligation?

Mr. Frank responded negatively.

Mr. Moore noted that it had been said publicly at the meeting on Monday.

Mr. Moore stated that they had not known that the report was the same as last year until it had been received, and that the Town did object through the County Planning Association, and through the DCA. Both groups did recognize the objection of the Town as being valid, with the State commenting that the City of West Palm Beach should address the issue. He added that the problem was that the City knew that they would not pass the traffic standards, and did not submit a traffic report, knowing that standards could not be met. The City had let the period of time go by, received the objections from the State, and in the meantime began work with Kimley-Horn to get a traffic report ready. Traffic engineers representing the Town would have to look at the projections, and make a prediction as to how it would affect the Town. It would be necessary to have that prediction in order to object to the Plan of the City of West Palm Beach.

Mr. McLendon asked when the Kimley-Horn Traffic Study had become available?

Mr. Moore stated that it had been picked up Tuesday.

Mrs. Smith asked if Kimley-Horn was also the expert for the Town?

Mr. Moore replied negatively--Frederick R. Harris was the current traffic engineer for the Town.

Mr. Randolph stated that the position of the City of West Palm Beach was that under this particular Plan, the number of square footage was much less than allowed under today's plan, or other plans that had been proposed. Their intention was to make it more attractive for development, which was what the City of West Palm Beach would argue in regard to whether or not this would create a greater impact on the Town of Palm Beach. The necessary east/west figures were not available in order for the Town to make an intelligent decision as to how this Plan would affect the Town of Palm Beach, and that information must be received.

Mr. Doney stated that this was an opportunity for the Town to formally go on record objecting to what the City of West Palm Beach was doing, formally requesting that written documentation in support of their Plan be provided to the Town so that the Town could make an informed analysis of the impacts to the Town, as well as Town-owned properties in the City of West Palm Beach.

Mrs. Smith stated that it would have been helpful if the members of the Town Council had copies of Florida Statute 163, and Rule 9J5.

Mr. Wyett stated that a lot of time was being taken up, and all rights and prerogatives should be asserted to receive all the reports, and objections should be made through due process of law. He made a motion that those things be done, and suggested moving on to the second stage as to how Town property rights would be affected.

Mr. Randolph explained that he believed the motion was that the Town leave this issue relating to the impacts of the Plan on the Town because of the lack of information, and state a request for that information at Monday's meeting.

Mr. Wyett restated the motion--he moved that the Town proceed to protect itself in all matters under F.S. 163 and Rule 9J5, and instruct the Town officials to so proceed. Mr. McDonald seconded the motion.

Mr. McLendon asked for clarification for the basis of the objection, since the square footage was less that was originally contemplated.

Mr. Randolph replied that, as he understood it, the motion was not that an objection be stated
but that the Town go forward Monday night and state to the City that there was not appropriate information given in order for the Town to analyze it in order to consider any objections. He suggested that the Town Council review any objections before they were formally made to the City of West Palm Beach.

Mr. Frank stated that the motion would authorize the Town Council to attend the meetings of the City, putting objections on the table relating to needed information, and then staff would follow through with necessary procedures.

Mr. Randolph stated that the Town Council would need to know what east/west traffic flows were on the bridges, and that information must be analyzed by a traffic engineer representing the Town.

Mr. Shaw asked what effect the filing of objections would have?

Mr. Randolph stated that an administrative challenge could be filed under Chapter 120, and in the event that the City of West Palm Beach had not complied with the Comprehensive Planning Process mitigation could be sought.

Mr. Frank stated that sometimes plans were based on a goal, as well as trend plans that included growth. He stated that he believed that the change was going from a goal oriented plan towards a trend plan in terms of the expectations of the City on what had been seen in the downtown area. He remarked that the Town would need to address some of the specifics of the Downtown Master Plan and how it would affect the Town.

Mr. McLendon remarked that he was interested in making an objection for its own sake, but only if there were real problems.

Mr. Frank suggested that it was not so much an objection, but rather an expression of concern that necessary data was needed.

Mr. Randolph remarked that it should be made very clear that the Town was not, at this point, objecting to the Plan and the affect on the Town, but rather was requesting information in order to analyze that affect.

Mrs. Smith stated that the Town had already objected in 1994, and if the Plan was the same the objections as stated in 1994 would be the same today.

Mr. Frank reviewed the objections of the Town in 1994 that would still be in place today:

In 1994, the objection was the Plan did not include proposed measures to limit growth should the Plan potential be met, nor were there any design criteria elements toward the equitable distribution of growth. Although extensive study was given to the transportation strategy of converting Dixie Highway and Olive Avenue to two-way traffic, no such planning exercise was conducted that would express the expected traffic impacts of east/west collector streets. As a neighboring community, the Town of Palm Beach requested the opportunity to review transportation engineering documentation, including traffic data on the two bridges entering the community from the subject study area. Very little discussion was given to the infrastructure elements other than traffic. Specific statements should include addressing the adequacy of the existing infrastructure, or capital improvement plan if facilities were inadequate. Negative environmental impacts resulting from the implementation of the Plan should be addressed. Mr. Frank explained that if there would be any increased pollution in Lake Worth, for example, it would affect the Town. The Urban Code seemed to address the issue of planting in green areas on individual parcels, but a more detailed plan for open space, and the protection of vistas was not included in a manner that would protect the human environment.

On roll call the motion carried unanimously.

Mr. Adrian Winterfield addressed the Town Council, inquiring if there was a copy of the Objections, Recommendations and Comments (ORC) Report of the Department of Community Affairs?

Mr. Frank responded affirmatively.

Mr. Winterfield commented that depending upon the jurisdiction and position of the Municipal Planning Organization, under Chapter 339, it was conceivable that everything the Town was saying to the City of West Palm Beach should also be said to that organization.

Mr. Frank stated that the Municipal Planning Organization was responsible for traffic planning on a County-wide basis, and the City of West Palm Beach had been directed to give the commentary from the Town of Palm Beach to that organization.

Mr. Moore explained that in answer to the objections that had been filed by the Town, the State had recommended back to the City of West Palm Beach that they had a responsibility to provide the Municipal Planning Organization and the Town of Palm Beach with information. The City of West Palm Beach took the position that it was merely a recommendation, and not an order, however, the Town had asked for it and assumed that the MPO would also ask for it. Mr. Moore stated that it was his opinion that the City had known from the start that the Plan would have difficulty in meeting traffic conditions.

Mr. McLendon asked why the State had merely recommended, instead of requiring?

Mr. Moore replied that was the bureaucratic response from the State, and that the Plan had not yet been approved as this was the comment period only.

Mr. Frank stated that the State had told the City of West Palm Beach that something must be done about traffic, and the study had been done. The DCA would have to decide if that was sufficient.

Mr. Frank then moved on to problems related to the parcels of land owned by the Town of Palm Beach in the study area. There were two types of buildings that would commonly be allowed in downtown West Palm Beach--five story buildings, and fifteen story buildings. The five story building was called Type III, and the fifteen story building was called Type IV. Essentially, the plan showed that there was a pattern of fifteen story buildings along the water. There was also a corridor of fifteen story high rises along the Lake and Okeechobee. The center of downtown would basically be confined to five stories. Mr. Frank continued that under the existing plan, Town properties were in Type III areas. The Duany & Plater-Zyberk plan proposed full development, from property line to property line, plus traffic signals on every corner to slow traffic down. The importance of the existing plan was that Town properties enjoyed the least restricted category.

Mr. Wyett asked Mr. Frank to describe the maximum that could be put there now.

Mr. Moore stated that the height of buildings was controlled by the amount of land and the setbacks required, as well as in relationship to square footage against the total amount of square footage of the land, or the Floor/Area Ratio.

Mr. Frank gave the example of Parcels 1, 2, and 3--the Loftin Street Garage, wherein under the old Plan the Town could have achieved 138,000 sq.ft. of mixed uses (office/retail). Under the new plan, under Type III (five-story buildings) the Town could get 172,000 sq.ft. Under Type IV, the Town could get an estimated 34,500 to 517,000 sq.ft. The difference was that Type IV areas could get at least twice as much square footage as Type III areas. In terms of the zoning, the Town was presently in the least restrictive category, and although allowed less square footage, there were certain restrictions present in the new ordinance, such as the restriction to have only retail on the first floor, which was looked upon by staff as a development constraint. Another point was that in the proposed plan the Town would be in the second least restricted category, rather than being in the least restricted category. Development potential would most probably shift to areas with the greatest potential, so staff felt that the development potential of Town parcels had been decreased by this plan.

Mr. Randolph stated that he did not think that a great deal of credence should be put in the square footage figures that had been mentioned, as that was a projection that had been done based on the representations of the staff of the City of West Palm Beach. There was no assurance of the amount of square footage which could actually be put on these properties if they were developed as Type III properties. He noted that Mr. Frank had taken the actual square footage of the property and multiplied that by a Floor/Area Ratio (FAR) to come up with the square footage that could be put on the property under Type III, because that could be built upon property line to property line. In actuality, the property in question was shaped triangularly and it would be impossible to build property line to property line. Further, there were certain second, third, fourth, and fifth floor setbacks above the first story that would also take away from the allowable square footage. He explained that the figures given by Mr. Frank were very raw figures, and he thought it was important that be understood. He suggested that the objection from West Palm Beach would be that there should be no complaint from Palm Beach, because under the Type III development, more square footage would be allowed on Town property than under the existing zoning. Mr. Randolph continued that the larger concern was the ability to develop the property, when there were so many Type IV properties in the area, which were more desirable. Mr. Randolph stated that staff had a concern that Town properties would be developable in the near term future as well as the long term future, and staff felt that the property value had not only been impaired, but devalued considerably to the point that there may be no use for the property within the foreseeable future. Another problem would be the requirement for retail space on the first floor, and the possibility of successful retail space at that location was slim to none at this time. Mr. Randolph emphasized that all along the lake there were Type IV buildings proposed; in front of the Town at the Royal Poinciana Bridge there were Type IV buildings proposed; although the Town property was on a major arterial, it would be downzoned to the Type III type building.

Mr. Wyett stated that he was concerned with the salability and development of Town-owned land, however, right now the site had potential as Town-serving for municipal purposes, in the event that the Town needed the land, and he questioned the impact of building a facility there.

Mr. Frank replied that the problem was that the old zoning specifically stated what could and could not be done with buildings, however, the Duany & Plater-Zyberk plan did not. There was no language referring to municipal use, which was a concern to staff.

Mr. Randolph stated that retail and commercial use was allowed under the new plan, and there was a definition for commercial use which said "premises used generally for the conduct of retail, artisinal, restaurant, lodging, professional business, governmental services, entertainment, and recreational uses, but excluding prohibited uses." There was then a list of prohibited uses attached.

Mr. Frank commented that office-type muncipal use could be done, but was unsure of other municipal uses, such as a garage, etc.

Mr. Wyett asked if the Town owned any other property that could be used for a reverse osmosis plant?

Mr. Frank replied that was a question for an engineer.

Mrs. Smith remarked that other properties had been discussed at the Water Committee.

Mr. Shaw asked if the triangular portion of Town land would be able to be used as a facility structure?

Mr. Doney stated that the Montgomery Report identified the Town properties in the City of West Palm Beach that would be suitable for a potential reverse osmosis facility or other water type facility, focusing on the triangular shaped piece of property located on the north side of Quadrille, and there were several properties that were potential sites.

Mr. Shaw said that he was asking if the current re-zoning proposal would permit such a facility?

Mr. Doney replied that was not known at this time, and was another reason why the Town must ask for definitive information in order to make decisions.

Mr McLendon asked if any City of West Palm Beach properties used for municipal purposes were included in the

re-zoning proposal?

Mr. Frank responded that City Hall was included.

Mr. Doney stated that the City Water Plant was outside of the downtown planning area.

Mr. Wyett stated that he believed it was extremely important for the Town to protect its financial interests.

Mr. Frank stated that staff was recommending objection to the Type III classification of Town property, as the designation would cause a detriment to the marketability of the property, as well as an objection to the development cap in the first floor retail restriction that placed an inordinate burden on the subject property.

Mr. Wyett asked if concerns about the muncipal use would be added?

Mr. Frank replied affirmatively.

Mr. Wyett suggested that losing the developmental rights for municipal purposes on this land could handcuff a future Town Council.

Mr. Frank stated that the last objection would be regarding the retail requirement of first floor space, which would diminish the flexibility of use of building space and negatively impact the marketability of the Town owned parcels.

Mr. Wyett made a motion that the objections listed in the report of Mr. Frank be accepted. Seconded by Mr. Shaw.

Mr. Moore complimented the staff of the City of West Palm Beach and noted that problems in dealing with the City were certainly not on a staff level, and that Pam McNeary, Rick Greene, and Mark Hill were very cooperative.

Mr. Adrian Winterfield addressed the Town Council, stating that it was ironic that the Town should negatively consider development on one hand, while wishing to take part of the development as well, and that there may be a possibility of jeopardizing the position of the Town relative to traffic by insisting on full development rights.

Mr. Randolph added that there was no irony, as the Town Council had not taken a position in regard to the effect that this would have on the Town of Palm Beach as a whole, but simply wanted the information made available in order to be able to analyze it.

On roll call the motion carried unanimously.

Mr. Randolph pointed out several typographical errors on the report--on page 4 the last paragraph should read "The ordinance should contain a development cap..." (rather than gap); on page 5, under No.2, first paragraph, the word "predictability" should be stricken.

V. ANY OTHER MATTERS

There were none.

VI. ADJOURNMENT

The meeting was adjourned at 11:30 A.M.

_____
Mary A. Pollitt
Town Clerk

Prepared By:
Susan Eichhorn